Supreme Court, U.S.
FILED
JUL 9 1991
OFFICE OF THE CLERK

Nos. 90-1205 and 90-6588

In the Supreme Court of the United States

OCTOBER TERM, 1991

UNITED STATES OF AMERICA, PETITIONER

v.

RAY MABUS, ET AL.

JAKE AYERS, JR. ET AL., PETITIONER

v.

RAY MABUS, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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PETITIONS FOR WRITS OF CERTIORARI FILED JANUARY 28, 1991 (No. 90-1205) AND DECEMBER 17, 1990 (No. 90-6588)
CERTIORARI GRANTED APRIL 15, 1991

456

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

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Testimony of Dr. Malvin Williams
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11. District Court judgment of December 10, 1987 (Record volume 6, document 1654) 1885
12. Order granting certiorari in No. 90-1205, April 15, 1991 1887
13. Order granting certiorari in No. 90-6588, April 15, 1991 1888

BOARD'S EXHIBIT 187
BOARD OF TRUSTEES OF STATE
INSTITUTIONS OF HIGHER LEARNING

DISTRIBUTION OF SCORES BY FREQUENCY
OF STANDARD SCORES BY SUBJECT, ENTERING FRESHMEN

COMPOSITE

1986-1987

STANDARD SCORE	ASU	DSU	JSU	MSU	MUW	MVSU	UM	USM	TOTAL
36	0	0	0	0	0	0	0	0	0
35	0	0	0	0	0	0	0	0	0
34	0	0	0	0	0	0	1	0	1
33	0	0	0	1	0	0	1	1	3
32	0	1	0	5	0	0	5	1	12
31	0	0	0	24	1	0	12	6	43
30	0	0	0	41	0	0	19	10	70
29	0	5	1	54	4	0	38	14	16
28	0	4	1	77	6	0	57	23	168
27	1	10	2	115	7	0	72	49	256
26	3	16	10	77	9	1	55	31	202
25	3	23	13	107	15	2	79	40	282
24	4	15	16	92	10	3	80	56	276
23	4	14	28	95	13	14	76	59	303
22	13	23	31	106	6	12	95	55	341
21	22	14	38	104	15	19	94	61	367
20	6	25	37	120	12	24	95	84	403
19	14	38	35	100	14	15	95	76	387
18	28	32	49	95	13	5	89	75	386
17	24	35	44	87	14	13	85	85	387

BOARD'S EXHIBIT 187

BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING

DISTRIBUTION OF SCORES BY FREQUENCY OF STANDARD SCORES BY SUBJECT, ENTERING FRESHMEN – Continued

COMPOSITE

1986-1987

STANDARD SCORE	*ASU*	*DSU*	*JSU*	*MSU*	*MUW*	*MVSU*	*UM*	*USM*	*TOTAL*
16	37	33	50	94	21	18	75	92	420
15	42	47	76	94	8	22	70	79	438
14	22	15	93	31	0	16	21	30	228
13	30	7	100	36	0	20	16	23	232
12	32	5	90	17	0	36	6	7	193
11	50	3	93	1	0	35	1	3	186
10	39	3	106	1	0	31	1	0	181
9	43	0	68	0	0	16	0	0	127
8	0	0	0	0	0	0	0	0	0
7	0	0	0	0	0	0	0	0	0
6	0	0	0	0	0	0	0	1	1
5	0	0	0	0	0	0	0	0	0
4	0	0	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0	0	0
2	0	0	0	0	0	0	0	0	0
1	0	0	0	0	0	0	0	0	0
TOTAL	417	368	981	1574	168	302	1238	961	6009
1986-87 MEAN	14.50	19.24	14.84	21.67	21.03	15.17	21.44	20.12	19.27
1985-86	13.07	19.06	14.01	21.19	20.08	12.73	20.83	19.61	18.43
Change	+ 1.43	+ 0.18	+ 0.83	+ 0.48	+ 0.95	+ 2.44	+ 0.61	+ 0.51	+ 0.84

BOARD'S EXHIBIT 192

COMPARISON OF ACTUAL AND ESTIMATED PERCENTAGE OF BLACKS IN ENTERING FRESHMAN CLASS AT FIVE PREDOMINANTLY WHITE MISSISSIPPI UNIVERSITIES, 1985 AND 1986

Year	*University*	*Blacks in Freshman Class*	
		Actual	*Estimated*[1]
		(Percent)	
1985	*Delta State University*	*17.9*	*17.5*
	Mississippi State University	*14.1*	*15.8*
	Mississippi University for Women	*15.7*	*20.0*
	University of Mississippi	*7.2*	*16.2*
	University of Southern Mississippi	*20.2*	*16.3*
	All Schools	*14.4*	*16.4*
	All Schools Except University of Mississippi	*16.2*	*16.5*
1986	*Delta State University*	*18.5*	*19.3*
	Mississippi State University	*14.9*	*17.6*
	Mississippi University for Women	*16.6*	*21.6*
	University of Mississippi	*6.5*	*17.9*
	University of Southern Mississippi	*23.1*	*18.0*
	All Schools	*15.3*	*18.2*
	All Schools Except University of Mississippi	*17.4*	*18.3*

Note: Persons who took the ACT tests were counted only once and categorized by their maximum ACT test score and the year they expected to enter college. Persons already in college were excluded from the analysis. Persons outside Mississippi were excluded.

[1] Includes persons seeking at least a Bachelor's degree, meeting core course requirements for 1986, and receiving an ACT score of at least 15; 50 exceptions allowed (or five percent of the previous year's freshman class, whichever greater) for those who have an ACT score of at least nine, but do not meet normal requirements.

Source: University enrollment data, 1985-86; American College Testing Tapes, 1984-1986.

BOARD'S EXHIBIT 193

COMPARISON OF ACTUAL AND ESTIMATED PERCENTAGE OF BLACKS IN ENTERING FRESHMAN CLASS AT FIVE PREDOMINANTLY WHITE MISSISSIPPI UNIVERSITIES, 1985 AND 1986

Year	*University*	*Blacks in Freshman Class*	
		Actual	*Estimated*[1]
		(Percent)	
1985	*Delta State University*	*17.6*	*15.2*
	Mississippi State University	*13.4*	*13.6*
	Mississippi University for Women	*15.7*	*17.1*
	University of Mississippi	*4.8*	*13.5*
	University of Southern Mississippi	*17.1*	*13.9*
	All Schools	*12.3*	*13.9*
	All Schools Except University of Mississippi	*15.1*	*14.1*
1986	*Delta State University*	*17.7*	*16.5*
	Mississippi State University	*13.2*	*15.2*
	Mississippi University for Women	*16.6*	*18.7*
	University of Mississippi	*4.8*	*15.4*
	University of Southern Mississippi	*19.8*	*15.4*
	All Schools	*12.8*	*15.6*
	All Schools Except University of Mississippi	*15.6*	*15.7*

Note: Persons who took the ACT tests were counted only once and categorized by their maximum ACT test score and the year they expected to enter college. Persons already in college were excluded from the analysis. Persons outside Mississippi were excluded.

[1] Includes persons seeking at least a Bachelor's degree, meeting core course requirements for 1986, and receiving an ACT score of at least 15; 50 exceptions allowed (or five percent of the previous year's freshman class, whichever greater) for those who have an ACT score of at least nine, but do not meet normal requirements.

Source: University enrollment data, 1985-86; American College Testing Tapes, 1984-1986.

BOARD'S EXHIBIT 201

A NATION AT RISK:
The Imperative for Educational Reform

The National Commission on Excellence in Education

INTRODUCTION

Secretary of Education T. H. Bell created the National Commission on Excellence in Education on August 26, 1981, directing it to examine the quality of education in the United States and to make a report to the Nation and to him within 18 months of its first meeting. In accordance with the Secretary's instructions, this report contains practical recommendations for educational improvement and fulfills the Commission's responsibilities under the terms of its charter.

The Commission was created as a result of the Secretary's concern about "the widespread public perception that something is seriously remiss in our educational system. "Soliciting the "support of all who care about our future," the Secretary noted that he was establishing the Commission based on his "responsibility to provide leadership, constructive criticism, and effective assistance to schools and universities."

The Commission's charter contained several specific charges to which we have given particular attention. These included:

- assessing the quality of teaching and learning in our Nation's public and private schools, colleges, and universities;
- comparing American schools and colleges with those of other advanced nations;

* * * * *

- The College Board's Scholastic Aptitude Tests (SAT) demonstrate a virtually unbroken decline from 1963 to 1980. Average verbal scores fell over 50 points and average mathematics scores dropped nearly 40 points.
- College Board achievement tests also reveal consistent declines in recent years in such subjects as physics and English.
- Both the number and proportion of students demonstrating superior achievement on the SATs (i.e., those with scores of 650 or higher) have also dramatically declined.
- Many 17-year-olds do not possess the "higher order" intellectual skills we should expect of them. Nearly 40 percent cannot draw inferences from written material; only one-fifth can write a persuasive essay; and only one-third can solve a mathematics problem requiring several steps.
- There was a steady decline in science achievement scores of U.S. 17-year-olds as measured by national assessments of science in 1969, 1973, and 1977.
- Between 1975 and 1980, remedial mathematics courses in public 4-year colleges increased by 72 percent and now constitute one-quarter of all mathematics courses taught in those institutions.
- Average tested achievement of students graduating from college is also lower.
- Business and military leaders complain that they are required to spend millions of dollars on costly remedial education and training programs in such basic skills as reading, writing, spelling, and computation. The Department of the Navy, for example, reported to the Commission that one-quarter of its recent re-

> cruits cannot read at the ninth grade level, the minimum needed simply to understand written safety instructions. Without remedial work they cannot even begin, much less complete, the sophisticated training essential in much of the modern military.

* * * * *

But the problem does not stop there, nor do all observers see it the same way. Some worry that schools may emphasize such rudiments as reading and computation at the expense of other essential skills such as comprehension, analysis, solving problems, and drawing conclusions. Stil others are concerned that an over-emphasis on technical and occupational skills will leave little time for studying the arts and humanities that so enrich daily life, help maintain civility, and develop a sense of community. Knowledge of the humanities, they maintain, must be harnessed to science and technology if the latter are to remain creative and humane, just as the humanities need to be informed by science and technology if they are to remain relevant to the human condition. Another analyst, Paul Copperman, has drawn a sobering conclusion. Until now, he has noted:

> Each generation of Americans has outstripped its parents in education, in literacy, and in economic attainment. For the first time in the history of our country, the educational skills of one generation will not surpass, will not equal, will not even approach, those of their parents.

It is important, of course, to recognize that *the average citizen* today is better educated and more knowledgeable than the average citizen of a generation ago—more literate, and exposed to more mathematics, literature, and science. The positive impact of this fact on the well-being

of our country and the lives of our people cannot be overstated. Nevertheless, *the average graduate* of our schools and colleges today is not as well-educated as the average graduate of 25 or 35 years ago, when a much smaller proportion of our population completed high school and college. The negative impact of this fact likewise cannot be overstated.

Hope and Frustration

Statistics and their interpretation by experts show only the surface dimensions of the difficulties we face. Beneath them lies a tension between hope and frustration that characterizes current attitudes about education at every level.

We have heard the voices of high school and college students, school board members, and teachers; of leaders of industry, minority groups, and higher education; of parents and State officials. We could hear the hope evident in their commitment to quality education and in their descriptions of outstanding programs and schools. We could also hear the intensity of their frustration, a growing impatience with shoddiness in many walks of American life, and the complaint that this shoddiness is too often reflected in our schools and colleges. Their frustration threatens to overwhelm their hope.

What lies behind this emerging national sense of frustration can be described as both a dimming of personal expectations and the fear of losing a shared vision for America.

On the personal level the student, the parent, and the caring teacher all perceive that a basic promise is not being kept. More and more young people emerge from high school ready neither for college nor for work. This predicament becomes more acute as the knowledge base continues its rapid expansion, the number of traditional jobs

shrinks, and new jobs demand greater sophistication and preparation.

On a broader scale, we sense that this undertone of frustration has significant political implications, for it cuts across ages, generations, races, and political and economic groups. We have come to understand that the public will demand that educational and political leaders act forcefully and effectively on these issues. Indeed, such demands have already appeared and could well become a unifying national preoccupation. This unity, however, can be achieved only if we avoid the unproductive tendency of some to search for scapegoats among the victims, such as the beleaguered teachers.

On the positive side is the significant movement by political and educational leaders to search for solutions—so far centering largely on the nearly desperate need for increased support for the teaching of mathematics and science. This movement is but a start on what we believe is a large and more educationally encompassing need to improve teaching and learning in fields such as English, history, geography, economics, and foreign languages. We believe this movement must be broadened and directed toward reform and excellence throughout education.

Excellence in Education

We define "excellence" to mean several related things. At the level of the *individual learner,* it means performing on the boundary of individual ability in ways that test and push back personal limits, in school and in the workplace. Excellence characterizes a *school or college* that sets high expectations and goals for all learners, then tries in every way possible to help students reach them. Excellence characterizes a *society* that has adopted these policies, for it will then be prepared through the education and skill of its

people to respond to the challenges of a rapidly changing world. Our Nation's people and its schools and colleges must be committed to achieving excellence in all these senses.

* * * * *

8. The curriculum in the crucial eight grades leading to the high school years should be specifically designed to provide a sound base for study in those and later years in such areas as English language development and writing, computational and problem solving skills, science, social studies, foreign language, and the arts. These years should foster an enthusiasm for learning and the development of the individual's gifts and talents.
9. We encourage the continuation of efforts by groups such as the American Chemical Society, the American Association for the Advancement of Science, the Modern Language Association, and the National Councils of Teachers of English and Teachers of Mathematics, to revise, update, improve, and make available new and more diverse curricular materials. We applaud the consortia of educators and scientific, industrial, and scholarly societies that cooperative to improve the school curriculum.

Recommendation B: Standards and Expectations

We recommend *that schools, colleges, and universities adopt more rigorous and measurable standards, and higher expectations, for academic performance and student conduct, and that 4-year colleges and universities raise their requirements for admission. This will help students do their best educationally with challenging materials in an environment that supports learning and authentic accomplishment.*

Implementing Recommendations

1. Grades should be indicators of academic achievement so they can be relied on as evidence of a student's readiness for further study.
2. Four-year colleges and universities should raise their admissions requirements and advise all potential applicants of the standards for admission in terms of specific courses required, performance in these areas, and levels of achievement on standardized achievement tests in each of the five Basics and, where applicable, foreign languages.
3. Standardized tests of achievement (not to be confused with aptitude tests) should be administered at major transition points from one level of schooling to another and particularly from high school to college or work. The purposes of these tests would be to: (a) certify the student's credentials; (b) identify the need for remedial intervention; and (c) identify the opportunity for advanced or accelerated work. The tests should be administered as part of a nationwide (but not Federal) system of State and local standardized tests. This system should include other diagnostic procedures that assist teachers and students to evaluate student progress.
4. Textbooks and other tools of learning and teaching should be upgraded and updated to assure more rigorous content. We call upon university scientists, scholars, and members of professional societies, in collaboration with master teachers, to help in this task, as they did in the post-Sputnik era. They should assist willing publishers in developing the products or publish their own alternatives where there are persistent inadequacies.

5. In considering textbooks for adoption, States and school districts should: (a) evaluate texts and other materials on their ability to present rigorous and challenging material clearly; and (b) require publishers to furnish evaluation data on the material's effectiveness.
6. Because no textbook in any subject can be geared to the needs of all students, funds should be made available to support text development in "thin market" areas, such as those for disadvantaged students, the learning disabled, and the gifted and talented.
7. To assure quality, all publishers should furnish evidence of the quality and appropriateness of textbooks, based on results from field trials and credible evaluations. In view of the enormous numbers and varieties of texts available, more widespread consumer information services for purchasers are badly needed.
8. New instructional materials should reflect the most current applications of technology in appropriate curriculum areas, the best scholarship in each discipline, and research in learning and teaching.

RECOMENDATION C: TIME

We recommend *that significantly more time be devoted to learning the New Basics. This will require more effective use of the existing school day, a longer school day, or a lengthened school year.*

Implementing Recommendations

1. Students in high schools should be assigned far more homework than is now the case.

2. Instruction in effective study and work skills, which are essential if school and independent time is to be used efficiently, should be introduced in the early grades and continued throughout the student's schooling.
3. School districts and State legislatures should strongly consider 7-hour school days, as well as a 200- to 220-day school year.
4. The time available for learning should be expanded through better classroom management and organization of the school day. If necessary, additional time should be found to meet the special needs of slow learners, the gifted, and others who need more instructional diversity than can be accommodated during a conventional school day or school year.
5. The burden on teachers for maintaining discipline should be reduced through the development of firm and fair codes of student conduct that are enforced consistently, and by considering alternative class-

* * * * *

BOARD'S EXHIBIT 207

1985-1986 RACIAL ANALYSIS OF FACULTY: PREDOMINANTLY WHITE SCHOOLS

	Hired Pre-1974	*Hired Since 1974*	*Total (1) + (2)*
	(1)	(2)	(3)
Number of Faculty:			
Total	1006	1557	2563
Black	4	56	60
Actual Percent Black	0.40	3.60	2.34
Expected Number Black[1]	33.6	58.0	91.6
Black Shortfall:			
Persons*ffi*	30	2	32
Units of Standard Deviation[3]	5.26	0.27	3.41

[1] Based upon availability estimates from NERA tables.
[2] Rounded to whole persons.
[3] Based upon the binomial probability distribution.

BOARD'S EXHIBIT 208

1985-1986 RACIAL ANALYSIS OF FACULTY:
DELTA STATE UNIVERSITY

	Hired Pre-1974	*Hired Since 1974*	*Total (1) + (2)*
	(1)	(2)	(3)
Number of Faculty:			
Total	66	175	241
Black	0	12	12
Actual Percent Black	0.00	6.85	4.98
Expected Number Black[1]	2.7	8.3	11.0
Black Shortfall:			
Persons[2]	3	(4)	(1)
Units of Standard Deviation[3]	1.67	(1.32)	(0.31)

[1] Based upon availability estimates from NERA tables.
[2] Rounded to whole persons.
[3] Based upon the binomial probability distribution.

BOARD'S EXHIBIT 209

1985-1986 RACIAL ANALYSIS OF FACULTY: MISSISSIPPI STATE UNIVERSITY

	Hired Pre-1974	*Hired Since 1974*	*Total (1) + (2)*
	(1)	(2)	(3)
Number of Faculty:			
Total	363	505	868
Black	0	20	20
Actual Percent Black	0.00	3.96	2.30
Expected Number Black[1]	9.7	14.7	24.4
Black Shortfall:			
Persons[2]	10	(5)	4
Units of Standard Deviation[3]	3.15	(1.40)	0.82

[1] Based upon availability estimates from NERA tables.
[2] Rounded to whole persons.
[3] Based upon the binomial probability distribution.

BOARD'S EXHIBIT 210

1985-1986 RACIAL ANALYSIS OF FACULTY: MISSISSIPPI UNIVERSITY FOR WOMEN

	Hired Pre-1974	*Hired Since 1974*	*Total (1) + (2)*
	(1)	(2)	(3)
Number of Faculty:			
Total	74	83	157
Black	1	2	3
Actual Percent Black	1.35	2.41	1.91
Expected Number Black[1]	3.0	3.6	6.6
Black Shortfall:			
Persons[2]	2	2	34
Units of Standard Deviation[3]	1.18	0.87	1.59

[1] Based upon availability estimates from NERA tables.
[2] Rounded to whole persons.
[3] Based upon the binomial probability distribution.

BOARD'S EXHIBIT 211

1985-1986 RACIAL ANALYSIS OF FACULTY: UNIVERSITY OF MISSISSIPPI

	Hired Pre-1974	*Hired Since 1974*	*Total (1) + (2)*
	(1)	(2)	(3)
Number of Faculty:			
Total	251	426	677
Black	0	10	10
Actual Percent Black	0.00	2.35	1.48
Expected Number Black[1]	7.6	15.3	22.9
Black Shortfall:			
Persons[2]	8	5	13
Units of Standard Deviation[3]	2.80	1.37	2.77

[1] Based upon availability estimates from NERA tables.
[2] Rounded to whole persons.
[3] Based upon the binomial probability distribution.

BOARD'S EXHIBIT 212

1985-1986 RACIAL ANALYSIS OF FACULTY: UNIVERSITY OF SOUTHERN MISSISSIPPI

	Hired Pre-1974	*Hired Since 1974*	*Total (1) + (2)*
	(1)	(2)	(3)
Number of Faculty:			
Total	252	368	620
Black	3	12	15
Actual Percent Black	1.19	3.26	2.42
Expected Number Black[1]	10.6	16.1	26.7
Black Shortfall:			
Persons[2]	8	4	12
Units of Standard Deviation[3]	2.39	1.02	2.37

[1] Based upon availability estimates from NERA tables.
[2] Rounded to whole persons.
[3] Based upon the binomial probability distribution.

BOARD'S EXHIBIT 214

RACIAL ANALYSIS OF FACULTY HIRING
DELTA STATE UNIVERSITY
1974 THROUGH 1986

	Hires
Faculty:	
Total	353
Black	39
Black (Percent)	11.05
Expected Number Black[1]	18.2
Black Hire Shortfall (Persons)[2]	(21.0)
Units of Standard Deviation[3]	(5.00)

[1] Based upon availability estimates from NERA tables.
[2] Rounded to whole persons.
[3] Based upon the binomial probability distribution.

Source: NERA calculations based on faculty hiring data supplied by counsel.

BOARD'S EXHIBIT 215

RACIAL ANALYSIS OF FACULTY HIRING
MISSISSIPPI STATE UNIVERSITY
1974 THROUGH 1986

	Hires
Faculty:	
Total	1,169
Black	41
Black (Percent)	3.51
Expected Number Black[1]	38.1
Black Hire Shortfall (Persons)[2]	(3.0)
Units of Standard Deviation[3]	(0.48)

[1] Based upon availability estimates from NERA tables.
[2] Rounded to whole persons.
[3] Based upon the binomial probability distribution.

Source: NERA calculations based on faculty hiring data supplied by counsel.

BOARD'S EXHIBIT 216

RACIAL ANALYSIS OF FACULTY HIRING
MISSISSIPPI UNIVERSITY FOR WOMEN
1974 THROUGH 1986

	Hires
Faculty:	
Total	184
Black	16
Black (Percent)	8.70
Expected Number Black[1]	9.2
Black Hire Shortfall (Persons)[2]	(7.0)
Units of Standard Deviation[3]	(2.32)

[1] Based upon availability estimates from NERA tables.
[2] Rounded to whole persons.
[3] Based upon the binomial probability distribution.

Source: NERA calculations based on faculty hiring data supplied by counsel.

BOARD'S EXHIBIT 217

RACIAL ANALYSIS OF FACULTY HIRING
UNIVERSITY OF SOUTHERN MISSISSIPPI
1974 THROUGH 1986

	Hires
Faculty:	
Total	799
Black	36
Black (Percent)	4.51
Expected Number Black[1]	35.6
Black Hire Shortfall (Persons)[2]	0
Units of Standard Deviation[3]	(0.08)

[1] Based upon availability estimates from NERA tables.
[2] Rounded to whole persons.
[3] Based upon the binomial probability distribution.

Source: NERA calculations based on faculty hiring data supplied by counsel.

BOARD'S EXHIBIT 262

PROGRAM DUPLICATIONS BETWEEN COMPREHENSIVE UNIVERSITIES AND NON-COMPREHENSIVE UNIVERSITIES

Program Level	Percentage Duplication		
	Overall	P.B.I.	P.W.I.
Bachelors			
Total	79.7	78.8	87.2
Unnecessary	39.1	32.7	48.9
Masters	87.9	86.2	92.9

BOARD'S EXHIBIT 263

A SUMMARY OF THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING ACTIVITIES IN ACADEMIC PROGRAMS REVIEW

Submitted to the
1987 Mississippi Legislature in Accordance with
Senate Bill 2890, 1986 Legislature

January 5, 1987

INTRODUCTION

This document has been prepared in response to a legislative requirement made in Senate Bill 2890, Section 4, 1986 Legislative which reads in part as follows:

> Provided further, that the funds appropriated in this act shall not be expended after January 15, 1987, except on the condition that the Board of Trustees of Institutions of Higher Learning shall submit to the Legislature on or before January 5, 1987, a plan and proposal, including a timetable for the elimination of duplicating programs and degrees in the existing institutions of higher learning in this state, such plan and proposal having the ultimate objective of elminating duplicating program and degree offerings or providing a justification therefore.

This report describes actions taken from January 1, 1976, through December 31, 1986. This report addresses what the Board of Trustees of State Institutions of Higher Learning has already done to eliminate unnecessary duplication, explains why similar programs remain, and

describes what is being done to prevent unnecessary duplication in the future, with a chapter devoted to each topic.

The question of unnecessary duplication is central to the Board's concerns, as the Board aspires to provide the highest quality programs possible with the resources available and is charged with offering "the broadest possible educational opportunities...without inefficient and needless duplication" (37-101-13). Consequently, this document is comprehensive, addressing not only the question of duplication but Board actions that have resulted in the delivery of the highest quality education possible through the eight public universities of this state within the resources available.

CHAPTER I

WHAT THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING HAS ALREADY DONE IN ELIMINATING UNNECESSARY DUPLICATION

During the fiscal year July 1, 1975, through June 30, 1976, Mississippi's state universities continued to grow despite a national trend toward stabilization of on-campus student enrollment and despite a recession that had affected available funds. Unlike the national trend, enrollment totals increased significantly for all Mississippi universities. New degree programs were approved, and the promising future of higher education was evident in expanding physical facilities on the various campuses.

Off-campus programs, both credit and non-credit, continued to expand in keeping with increasing off-campus enrollment in the state and across the nation. Attendance

at off-campus centers was promoted by relaxing credit hour limitations for students attending degree-completing centers. Students were allowed to register for nine (9) semester hours per quarter at centers on the quarter system and twelve (12) semester hours per semester at centers on the semester system.

Although enrollment was increasing significantly at all of the state's public universities and physical facilities were expanding on various campuses, the Board recognized the scarcity of state resources and the possible effects on higher education funding in the future. The Board diligently sought to provide the highest quality of education possible with the available resources yet recognized the dearth of state funds and implications for the future. Thus, the Board initiated the first in-depth study of graduate programs at the state universities on January 15, 1976. The first review of doctoral programs within the system was initiated with the sole purpose of alleviating costly or unnecessary duplication of doctoral programs. In addition, on April 15, 1976, the Board declared a moratorium on establishing any new doctoral programs until such time as the study of the then current doctoral programs was completed.

During the 1976-77 fiscal year, Mississippi's state-supported institutions of higher learning continued to grow in many areas with increases in legislative appropriations, expansion of physicl facilities, additional new course offerings, and, an increased number of degrees awarded. The 1977 Mississippi Legislature appropriated $88,760,617 or an increase of 21.26% for general support of the public institutions of higher learning for 1977-78.

Despite the generous increase in revenues appropriated by the Legislature for fiscal years 1976-77 and 1977-78, the Board through its doctoral review continued its quest to eliminate unnecessary duplication.

To facilitate a more comprehensive treatment of the question of unnecessary duplication and delivery of quality education, the Board initiated on February 2, 1977, the consideration of the role and scope of the institutions under the governance of the Board.

In January 1979, the Board established a policy that provided the mechanics for the elimination and control of unnecessary duplication via off-campus extension classes. This policy established a 50-mile radius around each state university's home campus, Board-approved center, or regional campus as a geographic boundary. Another state university could not offer education services carrying academic credit within this boundary without approval of the Board of Trustees.

The Board completed the doctoral program review in 1979 after eliminating over 50% of the doctoral programs within the system and consequently virtually eliminating similar doctoral programs among the public universities. The Board then reviewed and updated its criteria for considering new programs in September 1979.

The Board was determined to curtail the excessive creation of new programs and at the same time assist Mississippians' access to programs not then available within the system. Thus, on November 15, 1979, the Board approved the recommendation from the Southern Regional Education Board that the Academic Common Market be expanded to include unique and outstanding baccalaureate programs. A cooperative agreement between

the 14-member states of the Southern Regional Education Board, the Academic Common Market enables out-of-state students to attend programs not available in their home state without paying out-of-state tuition. Prior to expansion, this option was only available at the graduate level. The Board's expanded participation provided greater access to academic programs.

In September 1980, the Board initiated two of the most significant actions in the history of public higher education in this state. At the September meeting, the Board instructed the staff to prepare, within the next six months, recommended role and scope mission statements for each of the universities for the Board's consideration. The Board also directed the staff to prepare a procedure for the review of all existing programs below the doctoral level with the exception of a few professional programs such as dentistry and medicine. A procedure was developed and a pilot review was conducted. Then in November 1981, the Board formally began the process of the review of programs below the doctoral level. The Board also made the decision in November 1981 to assign specific missions to each of the eight universities. Fully realizing that the State of Mississippi could not afford to have eight public universities trying to do all things for all people, the Board set directions for each of the eight universities so they could better utilize their resources in specific areas and at specific levels.

Although these were two separate actions by the Board, both were taken with the same goal in mind and should not be thought of as two separate and unrelated entities. Collectively these two actions provided a realistic mechanism for realizing the Board's determination to provide highest quality postsecondary education possible

within the resources available for the citizens of the state. The mission statements provided guidance on which programs to eliminate or retain. Thus, the academic programs review couped with the mission statements enabled the institutions to eliminate unnecessary duplication without impairing the ability of the system to provide access to quality education.

Having put in place mechanisms to address institutional focus and the elimination of unnecessary duplication among institutions, the Board turned its attention to upgrading the efficiency, cost effectiveness, academic standards, accreditation status, and national prominence of specific academic programs and areas. Between November 1981 and May 1982, the Board adopted several policies to accomplish these goals. Three of these policies are discussed in the following paragraphs.

Recognizing the need for more highly qualified elementary and secondary school teachers in the state, the Board adopted a policy requiring that students pass the College Outcome Measures Program (COMP) test before being admitted to teacher education programs. This policy was passed in November 1981 to go into effect beginning with the spring term of 1983. In addition to testing a student's ability to apply general knowledge, the COMP test assesses a student's speaking and writing abilities. The policy allows only those students who are perceived to have a high probability of both finishing a teacher education program and passing the National Teacher Examination to enter teacher education programs.

Determined that the citizens of Mississippi have access to some programs of national prominence within the boundaries of this state, the Board approved a plan in March 1982 for the development of Academic Centers of Excellence at the three comprehensive universities. These

universities were challenged to develop the degree programs within their assigned excellence areas to a position of national competitiveness. The Academic Centers of Excellence received legislative funds specifically for this purpose. In addition to providing access to outstanding programs, these programs are expected to attract increasing amounts of external funding and to significantly impact economic development within the state.

The Board was concerned with both access to higher education and with the expenditure of nearly one million dollars a year for developmental studies (remedial) programs. Thus, the Board instituted additional admission standards in July 1982 which require that specific high school courses be taken for admission to the publicly supported universities. These courses include the following Carnegie units: four English, three math, three science, two-and-a-half social studies, and one required elective. This policy did not become effective until fall 1986, providing ample time for any student impacted by the policy to meet the course requirements.

The review of programs below the doctoral level was completed in April 1984 and was immediately followed by a rereview of programs that had been rated below approval. The below approval programs were given two years to eliminate the deficiencies identified in the original review. Additionally, the Board called for a second review of doctoral programs. The second review was initiated in September 1985 and completed in July 1986. The rereview of programs below the doctoral level was completed in November 1986.

The Board of Trustees is committed to two basic facts in its decision-making: (1) only programs of high quality will be offered at the public universities in Mississippi; and (2)

every appropriated dollar given by the taxpayers of the State of Mississippi to the universities will be utilized in the most efficient manner. The Board has aggressively pursued these two commitments. The remaineder of this chapter is a quantitative treatment of what this Board has already done in its specific quest to eliminate costly or unnecessary duplication.

Consistent with the mandate of Senate Bill 2890, Section 4, 1986 Legislature, this document addresses the elimination of duplicated programs and duplicated degrees. For clarity and consistency, "program" and "degree" are defined for this document as follows. A program is an organized system of courses and activities designed to prepare students for one or more of a variety of societal functions such as employment, research, further study, etc., in a given discipline. One such program is a bachelor's level program in English. For example, a bachelor's level program in English may include both a Bachelor of Arts degree in English and a Bachelor of Science degree in English. The difference between these two degrees could be that one degree requires six hours of foreign languages and the other degree does not, with all other course and activity requirements being identical. Thus, a given program may contain the offering of several distinct degrees.

In November 1981, the Board of Trustees of State Institutions of Higher Learning assigned appropriate missions to each of the eight universities under its governance. The Board completed its task of eliminating unnecessary duplication within the eight universities in November 1986. This has been a continuous process that included two different complete reviews of doctoral programs, a complete review of all programs below the doctoral level

with the exception of a few professional programs such as dentistry and medicine, and a rereview of selected programs below the doctoral level. This process has included both the elimination and the addition of programs and degrees within the system. The review process has simultaneously eliminated unnecessary duplication from the system and put in place at each institution those programs necessary for realizing the institutional mission. Conducted over a ten-year period, this process has utilized well over one hundred of the most highly respected and recommended consultants in the respective disciplines and cost the State of Mississippi in excess of $135,000.

Chart A at the end of this chapter gives the number of programs and degrees that have been added to each institution within this period. This information is given by year, program and degree level, and is totaled specifically for each institution and for the system collectively. Chart B gives the number of programs and degrees that have been eliminated from the system and utilizes the same format as Chart A. Graphs A and B give pictorial summaries of the totals in Charts A and B. Graphs C and D show the decline in the number of programs and degrees offered collectively by the state's publicly supported universities for the period 1976-1986.

As can be seen from Charts A and B, 107 programs containing 109 degrees have been added to the system, and 471 programs containing 517 degrees have been eliminated from the system within this period. Therefore, a net 364 degree programs containing 408 degrees have been eliminated.

Graph C shows that the number of doctoral degrees between 1976 and 1986 was reduced from 147 to 72 or reduced by over 50 percent. Between 1976 and 1986, the number of doctoral programs for these degrees was reduced from

132 to 66, a 50 percent reduction. If the University of Mississippi Medical Center is not included in these calculations, then the number of doctoral degrees was reduced from 139 to 64 or reduced by 54 percent. During this same time the number of doctoral programs was reduced from a total of 124 to a total of 58 or a 53 percent reduction. As illustrated by Graph D, between 1976 and 1986 the number of degrees at all levels was reduced from 1236 to 828 or reduced by 33%. Over the ten-year period, the number of programs for these degrees at all levels was reduced from 1064 to 700, a 34% reduction.

The Board of Trustees of State Institutions of Higher Learning has been successful in decreasing the doctoral offerings of the doctoral-granting institutions by more than 50% and the overall offerings of all of the universities by 34%. The Board has used a time-consuming, rigorous process and the best available outside consultants in making these reductions. The Board is confident that any additional significant number of degree program or degree eliminations would endanger the potential for the respective institutions to realize their missions and would significantly decrease the level of in-state access to higher education for the citizens of Mississippi.

CHAPTER III

WHAT IS BEING DONE AS AN ONGOING PROCESS TO PREVENT UNNECESSARY DUPLICATION IN THE FUTURE

The Board of Trustees is satisfied that unnecessary duplication of academic programs and degrees within the state's eight publicly supported universities has been eliminated and that the 828 degrees within the 700 programs remaining in the system are of the highest quality

possible with the available resources. The Board further believes that if more programs or degrees were eliminated in significant numbers, existing programs and degrees as well as accessibility to high quality in-state higher education would be damaged.

The Board sees as its charge for academic programs and degrees 1) the continuance and enhancement of the present high quality of all programs and degrees remaining within the system and 2) the prevention of unnecessary duplication within the system in the future. The Board already has in place three formal mechanisms that assure the realization of these goals.

The first mechanism is a very rigorous and formal process for the initiation of any new program within the system. In order for any university within the system to start a new program, the following must occur: 1) the program must be within the dictates of the mission of the respective university; 2) the program must not lead to unnecessary duplication within the system; 3) there must be a documented need for the program; 4) the necessary resources must be available for the program to be of high quality; 5) the curriculum must be appropriately designed to facilitate the realization of the previously defined purposes of the program; and 6) all of the above requirements must be verified by an external consultant who has been recommended by the appropriate regional or national professional organization of the proposed new program. The Board will consider allowing an institution to initiate a new program or degree only after these six conditions have been satisfied.

The second mechanism is the Council on Doctoral Education created by the Board in July 1986. The Council

consists of one voting member from each of the five doctoral-granting universities: Delta State University, Jackson State University, Mississippi State University, the University of Mississippi, and the University of Southern Mississippi. The general charge of the Council on Doctoral Education is to promote increased cost effectiveness and enhanced quality of doctoral programs in the state.

Some specific duties of the Council are as follows: 1) to monitor program development and emphasis in order to eliminate unnecessary programmatic duplication; 2) to coordinate the sharing of equipment, computer software, and other resources; 3) to establish a union catalog of library holdings; 4) to arrange for a shuttle service to transport library and other materials among campuses; 5) to encourage joint university courses and seminars; 6) to create a joint university colloquium program to bring

CHART A

New Degree Programs/Degrees: 1976-1986
12/3/86

Alcorn State University

	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	Total
Bachelor's Degrees	1	0	0	0	0	0	0	1	0	0	0	2
Bachelor's Programs	1	0	0	0	0	0	0	1	0	0	0	2
Total Degrees	1	0	0	0	0	0	0	1	0	0	0	2
Total Programs	1	0	0	0	0	0	0	1	0	0	0	2

Delta State University

Bachelor's Degrees	2	2	0	1	1	3	0	0	0	0	0	9
Bachelor's Programs	2	2	0	1	1	3	0	0	0	0	0	9
Master's Degrees	1	0	0	0	1	0	0	0	0	0	0	2
Master's Programs	1	0	0	0	1	0	0	0	0	0	0	2
Specialist Degrees	1	0	0	1	0	0	0	0	0	1	0	3
Specialist Programs	1	0	0	1	0	0	0	0	0	1	0	3
Doctoral Degrees	0	0	0	0	1	0	0	0	0	0	0	1
Doctoral Programs	0	0	0	0	1	0	0	0	0	0	0	1
Total Degrees	4	2	0	2	3	3	0	0	0	1	0	15
Total Programs	4	2	0	2	3	3	0	0	0	1	0	15

CHART A

Jackson State University

Bachelor's Degrees	1	3	2	0	1	0	1	0	0	0	0	8
Bachelor's Programs	1	3	2	0	1	0	1	0	0	0	0	8
Master's Degrees	0	3	1	0	0	0	0	0	0	0	0	4
Master's Programs	0	3	1	0	0	0	0	0	0	0	0	4
Specialist Degrees	0	1	1	0	0	0	0	0	0	0	0	2
Specialist Programs	0	1	1	0	0	0	0	0	0	0	0	2
Doctoral Degrees	0	0	0	1	0	0	0	0	0	0	0	1
Doctoral Programs	0	0	0	1	0	0	0	0	0	0	0	1
Total Degrees	1	7	4	1	1	0	1	0	0	0	0	15
Total Programs	1	7	4	1	1	0	1	0	0	0	0	15

Mississippi State University

Bachelor's Degrees	0	0	1	0	1	2	4	3	1	0	0	12
Bachelor's Programs	0	0	1	0	1	2	3	3	0	0	0	10
Master's Degrees	2	1	0	0	1	3	1	1	0	0	0	9
Master's Programs	2	1	0	0	1	3	1	1	0	0	0	9
Specialist Degrees	0	0	0	0	0	1	0	0	0	0	0	1
Specialist Programs	0	0	0	0	0	1	0	0	0	0	0	1
Doctoral Degrees	0	0	0	0	0	0	1	0	0	0	0	1
Doctoral Programs	0	0	0	0	0	0	1	0	0	0	0	1
Total Degrees	2	1	1	1	2	6	6	4	1	0	0	24
Total Programs	2	1	1	1	2	6	5	4	0	0	0	22

CHART A

Mississippi University for Women

Bachelorr's Degrees	0	0	2	1	2	0	2	0	2	1	0	10
Bachelor's Programs	0	0	2	1	2	0	2	0	2	1	0	10
Master's Degrees	0	0	2	2	0	0	1	1	0	0	0	6
Master's Programs	0	0	2	2	0	0	1	1	0	0	0	6
Doctoral Degrees	0	0	0	0	1	0	0	0	0	0	0	1
Doctoral Programs	0	0	0	0	1	0	0	0	0	0	0	1
Total Degrees	0	0	4	3	3	0	3	1	2	1	0	17
Total Programs	0	0	4	3	3	0	3	1	2	1	0	17

Mississippi Valley State University

Bachelor's Degrees	0	1	0	0	0	0	0	0	2	0	1	4
Bachelor's Programs	0	1	0	0	0	0	0	0	2	0	1	4
Master's Degrees	1	0	0	0	0	0	0	0	0	0	0	1
Master's Programs	1	0	0	0	0	0	0	0	0	0	0	1
Certificate Degrees	0	1	0	0	0	0	0	0	0	0	0	1
Certif. Programs	0	1	0	0	0	0	0	0	0	0	0	1
Total Degrees	1	2	0	0	0	0	0	0	2	0	1	6
Total Programs	1	2	0	0	0	0	0	0	2	0	1	6

CHART A

University of Mississippi

Bachelor's Degrees	0	1	0	2	1	1	0	1	0	1	0	7
Bachelor's Programs	0	1	0	2	1	1	0	1	0	1	0	7
Master's Degrees	0	0	0	0	0	0	1	0	0	0	2	3
Master's Programs	0	0	0	0	0	0	1	0	0	0	2	3
First Prof. Degrees	0	0	0	0	0	0	0	0	0	1	0	1
First Prof. Programs	0	0	0	0	0	0	0	0	0	1	0	1
Specialist Degrees	0	2	0	0	0	0	0	0	0	0	1	3
Specialist Programs	0	2	0	0	0	0	0	0	0	0	1	3
Total Degrees	0	3	0	2	1	1	1	1	0	2	3	14
Total Programs	0	3	0	2	1	1	1	1	0	2	3	14

University of Mississippi Medical Center

Bachelor's Degrees	0	0	0	0	1	0	0	0	0	0	0	1
Bachelor's Programs	0	0	0	0	1	0	0	0	0	0	0	1
Total Degrees	0	0	0	0	1	0	0	0	0	0	0	1
Total Programs	0	0	0	0	1	0	0	0	0	0	0	1

University of Southern Mississippi

Bachelor's Degrees	0	0	1	1	0	0	0	4	0	0	0	6
Bachelor's Programs	0	0	1	1	0	0	0	4	0	0	0	6

CHART A

University of SouthernMississippi – Continued

Master's Degrees	0	0	0	2	2	0	0	3	0	0	0	7
Master's Programs	0	0	0	2	2	0	0	3	0	0	0	7
Specialist Degrees	0	1	0	0	0	0	0	2	0	0	0	3
Specialist Programs	0	1	0	0	0	0	0	2	0	0	0	3
Total Degrees	0	1	1	3	2	0	0	9	0	0	0	16
Total Programs	0	1	1	3	2	0	0	9	0	0	0	16

Overall IHL Totals

Bachelor's Degrees	4	7	6	5	7	6	7	9	5	2	1	59
Bachelor's Programs	4	7	6	5	7	6	6	9	4	2	1	57
Master's Degrees	4	4	3	4	4	3	3	5	0	0	2	32
Master's Programs	4	4	3	4	4	3	3	5	0	0	2	32
Specialist Degrees	1	4	1	1	0	1	0	2	0	1	1	12
Specialist Programs	1	4	1	1	0	1	0	2	0	1	1	12
Certificate Degrees	0	1	0	0	0	0	0	0	0	0	0	1
Certif. Programs	0	1	0	0	0	0	0	0	0	0	0	1
First Prof. Degrees	0	0	0	0	0	0	0	0	0	1	0	1
First Prof. Programs	0	0	0	0	0	0	0	0	0	1	0	1
Doctoral Degrees	0	0	0	1	2	0	1	0	0	0	0	4
Doctoral Programs	0	0	0	1	2	0	1	0	0	0	0	4
TOTAL DEGREES	9	16	10	11	13	10	11	16	5	4	4	109
TOTAL PROGRAMS	9	16	10	11	13	10	10	16	4	4	4	107

BOARD'S EXHIBIT 274

BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING

Mission Statements

November 19, 1981

Premise: The general purpose of mission statements is to provide appropriate differential roles of various state universities. The general objective shall be quality performance of assigned and approved program endeavors. All programs are subject to periodic review by the Board of Trustees in terms of need, viable size, and effective performance. Based upon program reviews, the role and scope of any univesity may be adjusted from time to time. A review of all existing academic programs shall be completed by April of 1984.

Proposed new programs outside of the present role and scope of an institution would require extraordinary justification before being considered by the Board of Trustees. Specialized programs outside the basic mission assigned to an institution would require an outstanding report on the academic program review to remain at that institution. The question of unnecessary duplication of programs would be addressed in the academic program review. No new program requests will be honored at any institution until all programs at that institution eligible for accreditation have been accredited.

Comprehensive Universities: Mississippi State University, the University of Mississippi, and the University of Southern Mississippi will continue to offer a number of programs on the doctoral level. However, each institution will be expected to provide leadership in the state in certain disciplines. New program requests will be given priority at

those institutions selected for leadership in the discipline in which the program is being requested. Program actions on academic program review will be guided by the leadership assignments. An institution will be expected to become or to continue to be regionally and nationally competitive in the disciplines to which it has been assigned a leadership role. The 1981 Mississippi Legislature has expressed a desire to specially fund "Programs of Excellence". The determination of leadership responsibilities plus the possible additional monetary support should heighten the achievement of national recognition. Determination of leadership and responsibilities by the Board of Trustees would be subject to periodic review. The leadership responsibilities should be assigned as follows:

Mississippi State University
Agriculture and Forestry
Architecture
Biological Science
Engineering
Veterinary Medicine

University of Mississippi
Art
Law
Letters
Foreign Languages
Mathematics
Pharmacy
Physical Sciences
Public Affairs
Community and Regional Planning
Social Sciences

University of Southern Mississippi
Communications
Computer Science
Home Economics
Library Science
Marine Sciences
Music
Polymer Science
Psychology
Social Work
Technology

University of Mississippi Medical Center
Dentistry
Health Related Professions
Medicine
Nursing

Each institution is expected to remain actively involved in organized research. The comprehensive universities should continue to be the centers for the development of new knowledge and the expansion of existing research.

These three universities are expected to continue to provide academic credit courses and non-credit activities in their centers and in other locations where cost effectiveness can be justified. The Board's policy concerning off-campus activities will continue.

Urban University: Jackson State University stands alone in this category because of its location in the capital city. Jackson State should develop a broader mission for the institution that will be directly related to its urban role. Part of this mission will be to enhance the overall quality of the institution that will require among other things a lesser participation by marginal students. The institution is expected to engage in more organized research that is

directly related to the urban area of Jackson, Mississippi. Jackson State may offer with Board permission off-campus credit activities when demand warrants. Jackson State should engage in non-credit service activities off-campus within their resources.

Regional Universities: Alcorn State University, Delta State University, Mississippi University for Women, and Mississippi Valley State University should initially continue to offer their present baccalaureate programs. These offerings would be subject to change as a result of the program review or other determinations made by the Board of Trustees. Alcorn State University and Mississippi Valley State University shall continue their present graduate offerings in the field of education. Alcorn State University and Mississippi Valley State University shall have until the summer of 1984 to gain accreditation for their master's programs in education. If accreditation has not been granted within that time frame, no new graduate students may be admitted to the programs. The Master of Science program in Agriculture at Alcorn State and the Master of Science program in Environmental Health at Mississippi Valley State will be closely scrutinized through the program review process.

Mississippi University for Women may offer graduate work in Home Economics within the limited areas of Home Economics Education, Merchandising, Child Development, and Textiles. Graduate work in Education may continue to be offered contingent upon gaining NCATE accreditation for the graduate level by the summer of 1984. Delta State may continue its graduate offerings in Education. Delta State may continue its graduate work in Business with the stipulation that the institution shall establish a timetable for accreditation that will be presented to the Board in March of 1982.

No regional university shall grant specialist degrees with the exception of Delta State in the areas in which accreditation has been earned. Regional universities with doctoral programs shall be subject to an intensive evaluation of those doctoral programs four years after the date of the approval by the Board of Trustees to determine continuation. Under no circumstances should additional doctoral programs be established at regional universities.

Delta State University will be allowed to continue to engage in off-campus academic credit offerings within the area assigned to that institution. Mississippi Valley State University will be encouraged to continue its participation in Greenwood with Board-approved courses, and Alcorn State University should continue its involvement in the Vicksburg consortium with Board-approved courses. There is no expectation that Alcorn State, Mississippi Valley State, or Mississippi University for Women will be engaged in academic credit offerings in other locations than those mentioned above except under extraordinary circumstances and only with Board approval. The Board's policy concerning off-campus credit activities will continue. Non-credit service activities for these four institutions shoud be limited to on-campus except where extraordinary need exists. There is no expectation for organized research at these institutions.

Present admission standards are not the same at all of the regional universities. This is desirable and should be continued.

BOARD'S EXHIBIT 344

BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING'

STATE APPROPRIATIONS FOR NEW CONSTRUCTION
AT PUBLIC UNIVERSITIES, 1970 THROUGH 1980

Alcon State University	$20,787,276.00		14%
Jackson State University	$25,659,138.00	39%	17%
Mississippi Valley State University	$11,864,058.00		8%
Delta State University	$12,079,487.00		8%
*Mississippi State University	$16,961,709.00		12%
Mississippi University for Women	$ 9,815,242.00		7%
University of Southern Mississippi	$18,931,026.00		13%
**University of Mississippi	$26,611,393.00		18%
Gulf Coast Research Laboratory	$ 4,504,000.00		3%
TOTALS	$147,203,329.00		100%

*Does not include School of Veterinary Medicine
**Does not include University Medical Center

BOARD'S EXHIBIT 347

Report on a Review of the Funding and Allocation Formula for Operating Appropriations for Mississippi's Public Universities

by
Joseph E. Johnson
January 16, 1985

Introduction

The Board of Trustees of State Institutions of Higher Learning in Mississippi and the Board's Executive Secretary and Director, Dr. E.E. Thrash, asked me to review the funding and allocation formula for operating appropriations for Mississippi's public universities, to assess the current formula, and to submit recommendations for consideration for possible formula modifications. To accomplish these tasks the following actions were taken:

1. General policies and technical factors relating to the current formula were studied and assessed in relation to funding results in Mississippi public higher education and to higher education funding formulas in Tennessee and some other states.
2. The current formula and its origin, adjustments, and application were discussed with Dr. E.E. Thrash and appropriate members of his staff.
3. Brief individual meetings were held with the Presidents and the Chancellor along with some of their staff members from the eight senior universities in Mississippi.
4. Several statistical documents with information on enrollments, appropriations, expenditures, faculty salaries, faculty-student ratios, and other factors were examined to secure basic data for the Mississippi public universities.

5. Some Southern Regional Education Board statistical documents were examined to get some data comparing Mississippi's public higher education appropriations, expenditures, and faculty salaries with those of like higher education institutions in the South.

I am grateful for the support and cooperation given by Dr. E.E. Thrash, institutional Presidents and Chancellor, and the staff in the Board offices.

Summary Findings

The discussions, studies, interviews, and data reviews set forth above led to some summary findings that may be of value to the Board of Trustees, Dr. Thrash and his staff, and the Presidents and Chancellor of the eight senior universities in Mississippi.

Southern Regional Comparisons on Appropriations Per Student –

For the 1983-84 fiscal year per student appropriations for Mississippi's three comprehensive universities (Mississippi State University, University of Mississippi, and University of Southern Mississippi) were more than 15.0 percent below the Southern regional average for like institutions. The per student appropriation for the urban university, Jackson State University, was more than 9.0 percent above the Southern regional average for like institutions. And, the per student appropriations for the four regional universities in Mississippi were more than 25.0 percent above the Southern regional average for like institutions.

The current formula has resulted in the State of Mississippi's funding its more complex and comprehensive universities less adequately than its regional universities on the basis of Southern regional practices and norms. This finding does not argue for less funding for the regional

universities. However, it does point up the need for adjustments in funding for the comprehensive universities to recognize their responsibilities for graduate and professional education and for research and to enable them to be more competitive with their sister comprehensive universities outside the State of Mississippi.

The State of Mississippi in 1983-84 ranked third among fourteen Southern states in per capita appropriations for higher education and ranked second in the percentage of state taxes going to higher education. These two points are made to indicate that Mississippi is making a relatively good effort for higher education, but more will be required to address the needs of the comprehensive universities and of the other Mississippi institutions.

Comparative Data for Mississippi's Public Universities—

Basic comparative data set forth below reflects some significant relationships among Mississippi's public universities for selected years.

Per Full-Time Equated Student Appropriations

Institution	*1981-82*	*1982-83*	*1983-84*	*1984-85*
A.S.U.	$3,408	$3,393	$3,557	$3,990
D.S.U.	3,258	3,224	3,503	3,585
J.S.U.	2,359	2,644	3,026	3,237
M.S.U.	2,498	2,488	2,689	2,958
M.U.W.	5,273	5,297	4,397	4,790
H.V.S.U.	2,887	3,192	2,914	3,202
U.M.	2,557	2,728	3,073	3,373
U.S.M.	2,845	2,831	2,982	3,143

The preceding table contains data that show a consistent pattern of providing better funding to regional universities than to the comprehensive and urban universities. This pattern of funding does not appear to fit the differences in role and missions of the Mississippi universities as defiend by the Board of Trustees.

Per student appropriations among the three comprehensive universities and Jackson State are fairly consistent. However, Mississippi State has per student funding at the low end of the scale even though it may have a greater concentration of higher cost programs than some of the other comprehensive universities.

Faculty-Student Ratios

Institution	*1981-82*	*1982-83*	*1983-84*	*1984-85*
A.S.U.	1:15	1:15	1:15	1:15
D.S.U.	1:14	1:14	1:16	1:15
J.S.U.	1:18	1:17	1:19	1:17
M.S.U.	1:21	1:22	1:22	1:19
M.U.W.	1:11	1:11	1:14	1:14
H.V.S.U.	1:16	1:16	1:22	1:19
U.M.	1:21	1:20	1:20	1:19
U.S.M.	1:17	1:18	1:19	1:18

The preceding table reflects a high level of consistency within the faculty-student ratios of the three comprehensive universities and within those of the regional universities with the exception of Mississippi Valley. Again, the current Mississippi formula is allocating state funds that enable the regional universities to have more state money per student and to have better faculty-student ratios than the more comprehensive universities.

Percentage of Enrollment at Each Academic Level, 1984-85

Institution	*Lower*	*Upper*	*Graduate*
A.S.U.	53.0	43.1	3.9
D.S.U.	39.2	51.9	8.9
J.S.U.	48.3	39.2	12.5
M.S.U.	38.3	50.2	11.5
M.U.W.	46.9	50.2	2.9
H.V.S.U.	62.5	36.6	1.9
U.M.	37.1	47.3	15.6
U.S.M.	32.1	56.9	11.0

Graduate Degrees as Percentage of Total Degrees, 1983-84

Institution	*Masters*	*Specialist and Doctoral*
A.S.U.	8.9	–
D.S.U.	18.7	1.7
J.S.U.	20.1	3.0
M.S.U.	18.9	5.7
M.U.W.	9.1	–
H.V.S.U.	7.9	–
U.M.	16.7	4.7
U.S.M.	20.5	3.3

The preceding enrollment and degree data raise a question about the adequacy of the current formula to recognize properly the funding and faculty staffing needs of institutions carrying the heaviest loads of graduate education, especially in professional and technological areas and at the post-master's level.

Average Nine-Month Faculty Salaries, 1984-85

Institution	*Professor*	*Associate*	*Assistant*	*Instructor*	*All Ranks*
A.S.U.	$30,422	$25,192	$21,805	$15,301	$20,892
D.S.U.	32,729	25,596	22,135	19,715	25,651
J.S.U.	30,478	27,298	23,062	20,718	25,271
M.S.U.	35,908	28,228	23,661	17,314	27,514
M.U.W.	30,994	25,457	22,931	20,072	25,970
M.V.S.U.	29,237	23,172	19,807	17,042	21,733
U.M.	37,400	29,094	23,311	16,833	28,234
U.S.M.	37,126	29,707	24,269	19,144	28,914

Average faculty salaries for the three comprehensive universities are fairly consistent and are about 10.0 to 12.0 percent below the faculty salaries of like institutions in the South. The average faculty salaries at Jackson State are approximately 11.0 percent below Southern regional averages. The average faculty salaries at the regional

universities range from being right at the Southern regional average (M.U.W.), to 5.0 to 6.0 percent below at Delta State, to falling 14.0 to 16.0 percent below regional norms at A.S.U. and M.V.S.U.

Instructional Cost Rates for Credit Hour Production –

The current Mississippi funding formula uses credit hour costs for each type of institution (comprehensive, urban, and regional) by academic level and academic discipline to calculate appropriations requirements for instruction. This approach is sound even though it presents one problem. It does not have separate cost rates for master's and doctoral programs even though the equipment and staffing needs of doctoral programs generally far exceed those of master's programs.

This Mississippi formula has another inherent weakness in that it generates credit hour costs based upon Mississippi expenditures and, therefore, can average itself to death over a period of time. Thus, the formula would have a difficult time addressing the apparent relative underfunding of the comprehensive universities. The addition of some cost goals, such as peer group faculty salaries and faculty-student ratios would be helpful.

Physical Plant Operation and Maintenance and Utility Funding –

The current formula makes funding allocations for all other educational and general functions (academic support, institutional support, student services, and plant operation and maintenace) by assuming that these functions represent 47.0 percent of total educational and general costs at comprehensive and urban universities and 50.0 percent at regional universities. The balance of educational and general costs consists of the formula generated dollars for instruction. Therefore, the current formula does not recognize any campus by campus variations in utility costs, in educational and general space, or in plant operation and maintenance costs not directly related to enrollments and instructional costs.

While educational and general square footage may relate to enrollments, it may also relate to extent of research programs, extent of public service programs, and the degree to which building needs have been met or not met over the years. Costs for utilities (energy, water, and sewage) may relate to instructional costs, but they may vary widely with utility rate structures, efficiency of heating and cooling systems, and the magnitude of square feet on the various campuses.

Research Allocations and Expenditures

The Board of Trustees and the Mississippi legislature are to be commended for providing funds to the eight senior universities for research with allocations of 3.0 percent of instructional costs for the four regional universities and of 6.0 percent for the three comprehensive universities and Jackson State University. However, data in the table below reflect a somewhat inconsistent pattern between formula research allocations and research effort and expenditures from both restricted and unrestricted current funds. Some of Mississippi's universities, especially M.S.U., A.S.U., U.M., and U.S.M., use the research allocations and attract other research funds from external private and public sources while some other Mississippi universities seem to do little or no research, which raises a question about the purpose of the research formula factor. Is it to generate, stimulate, or attract research or is it to add money to some institutions whose missions do not really include research?

Research Formula Allocations and Research Expenditures, 1983-84

Institution	*Allocation*	*Expenditures*
A.S.U.	$ 168,964	$2,100,118
D.S.U.	199,018	167,440
J.S.U.	759,354	12,512

Institution	*Allocation*	*Expenditures*
M.S.U.	1,407,609	8,134,934
M.U.W.	158,105	45,144
M.V.S.U.	142,472	9,984
U.M.	1,209,368	4,764,183
U.S.M.	1,409,737	1,763,987

Library Holdings–

The current formula also includes funding for library operating expenditures and holdings within the overall non-instructional formula element. The Board of Trustees has seemed to recognize that the formula and historical funding patterns have created inequities in library funding and has provided special catchup funds for the purpose of library holdings. As of June 30, 1984, Mississippi institutional library holdings were below the volumes needed to meet the standards of the Association of College and Research Libraries by the following volumes and percentages.

Institution	*Volume Shortage*	*Percentage Shortage*
A.S.U.	31,396	16.1
D.S.U.	72,846	24.7
J.S.U.	145,379	41.7
M.S.U.	737,330	71.6
M.U.W.	59,467	21.2
M.V.S.U.	52,244	46.0
U.M.	821,199	110.4
U.S.M.	599,481	83.5

These data may argue for a library funding formula that is related more closely to academic programs and research functions than the current formula, which appears to have kept certain types of institutions closer to library

standards for numbers of volumes than it has the comprehensive universities with graduate and professional education and research missions.

Recommendations

Based upon the preceding findings, comparative data, and personal opinions and experiences, the following recommendations are presented for consideration by the Board of Trustees, Dr. E.E. Thrash, and the Presidents and Chancellor of the senior universities in Mississippi:

1. The basic concepts of the current formula should be retained for the calculation of instructional costs. However, a separate cost rate should be calculated for doctoral programs whose enrollments and credit hours are concentrated at the three comprehensive universities.

2. The instructional component of the current formula or the entire formula should have added to it an element that would assess how well the Mississippi institutions are funded in relation to peer group universities within the South and the nation. This element might include comparative faculty salaries, per student appropriations, and/or student-or programs that fall below the averages or other norms of like institutions and programs. Currently, some Mississippi institutions compare much more favorably to peer group institutions than do others.

3. The research component of the current formula should be retained but it should be altered to allocate state research and of institutional expenditures for research and of institutional success in securing *external* research grants and contracts from private and public sources. The research allocation should not, therefore, be calculated as a percentage of instructional costs as is now the case.

4. A sub-formula should be developed to arrive at funding requests or funding allocations for physical plant operation and maintenance and for utilities. Utilities

should be figured on the basis of what is required to service, heat, and cool educational and general space with proper incentives for conservatioln. Institutional administrators can do little or nothing about utility rates, inefficient energy systems, or excess space to heat and cool. Physical plant operation and maintenance cost allocations should be calculated on the basis of dollars per square foot of space with weighting factors for intensity of use and age of space. Naturally, institutional administrators should be expected to use plant funds wisely to avoid large deferred maintenance projects from non-formula funds.

5. The current formula should be amended to add a factor for instructional and research equipment replacement. This factor may provide that 5.0 to 10.0 percent of the inventory value of institutional equipment be added to the formula budget request annually.

6. The Board of Trustees and the Mississippi legislature should adhere to the results of this funding formula and should avoid periodic special adjustments that add bits and pieces of money to formula generated amounts to meet special requests or needs. This practice along with enrollment shifts can lead to situations in which a largely undergraduate university has $5,000 a year per student and a rather complex university with a heavy concentration of students in engineering, agriculture, and the hard sciences has $2,900 a year per student.

7. The Board of Trustees and Dr. Thrash should create a formula advisory committee with representation from each institution to review and analyze the formula and to evaluate possible changes and adjustments. This group would annually present its views and recommendations to Dr. Thrash and his staff for consideration. However, the formula should not be altered substantively on an annual basis.

8. Ample evidence exists to demonstrate that the institutions do not have sufficient funds to handle major repairs and renovations within annual operating appropriations and allocations. Therefore, the Board of Trustees and its staff should evaluate the major maintenance and renovation needs of each institution, arrange them in priority order on objective criteria, and seek funding from the State of Mississippi in accordance with the priority list. These funds should not be part of the formula process for operating appropriations.

9. The Board of Trustees is to be commended for assigning its eight institutions to three classifications to reflect their goals and missions. The Board and its institutional officials and faculty are to be commended for raising admissions standards for students at certain institutions. But, the Board and its staff may need to evaluate a supplemental formula factor to provide special funding for those institutions that have to expend considerable effort and resources on remedial and developmental work for students not fully ready to handle regular collegiate coursework.

10. Concern has been expressed about the more pronounced lack of competitiveness in faculty salaries and other resources in certain academic areas, including engineering, law, pharmacy, computer science and agriculture. While this concern is justified, efforts to address specific problem areas should be managed carefully and should consider the following factors:

a. Special support for selected programs should be included in overall appropriations rather than in separate line items.

b. Supplemental funding for selected academic areas may ignore legitimate needs in other disciplines and may create ill will and poor morale.

c. Special funding with strings attached may lessen the ability of responsible administrators to allocate resources to campus priorities.

The preceding points argue for giving first priority to lifting overall higher education support instead of seeking funds for selected areas unless dire conditions prevail.

11. Appropriate higher education and State officials in Mississippi should recognize that a funding formula is adequate only if higher education appropriations are adequate. Therefore, a top priority should be to increase overall funding for the benefit of all higher education while modifying the formula to make it more equitable and reasonable.

Conclusion

I have enjoyed my brief period of work on the Mississippi higher education allocation and funding formula. I have sought to make a few suggestions for consideration by the Board and its staff. No effort has been made to propose or to construct a totally new formula. I believe that the current formula has many assets but do think it would benefit from some adjustments and additions.

BOARD'S EXHIBIT 360

BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING
STATE OF MISSISSIPPI

Analysis of Amounts Actually Allocated Over or (Under) Pure Formula Allocations
1981-82 – 1986-87

	1986-87	1985-86	1984-85	1983-84	1982-83	1981-82	Total
ASU	–0–	$ 785,476	$ 241,154	$ (47,517)	$ (97,553)	$219,607	$1,101,167
DSU	–0–	383,569	58,285	(56,971)	(374,939)	(499,517)	(489,573)
JSU	–0–	1,235,726	387,997	(80,650)	(824,639)	(175,675)	542,759
MSU	–0–	(2,469,596)	(2,015,318)	(174,814)	182,215	342,667	(4,134,846)
MUW	–0–	321,976	1,030,531	717,758	1,609,191	335,037	4,014,493
MVSU	–0–	230,894	833,357	(35,237)	446,461	43,248	1,518,923
UM	–0–	995,820	621,571	(144,452)	(104,548)	(496,748)	871,643
USM	–0–	(1,483,865)	(1,157,777)	(178,117)	(836,188)	(119,989)	(3,775,936)

BOARD'S EXHIBIT 361

BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING STATE OF MISSISSIPPI

Comparison of University Average Cost Per Credit Hour to Group Average Cost Per Credit Hour Formula 1983-84

Regular Session 1981-82	*Average Cost Per Credit Hour*		
	Lower	*Upper*	*Graduate*
Formula 1983-84			
ASU	$53.60	$120.82	$356.81
DSU	68.60	99.33	183.48
MUW	87.52	126.17	399.91
MVSU	48.32	91.98	153.83
Average Group Rate	$61.36	$107.33	$244.62
JSU	$47.54	$75.27	$187.59
USM	52.05	85.72	272.92
Average Group Rate	$49.99	$82.51	$240.10

BOARD'S EXHIBIT 362

BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING STATE OF MISSISSIPPI

Comparison of University Average Cost Per Credit Hour to Group Average Cost Per Credit Hour Formula 1987-88

	Average Cost Per Credit Hour		
Regular Session 1985-86	*Lower*	*Upper*	*Graduate*
Formula 1987-88			
ASU	$73.36	$134.40	$348.87
DSU	83.56	127.28	286.89
MUW	82.34	129.66	737.85
MVSU	56.63	80.84	225.14
Average Group Rate	$73.15	$118.68	$347.94
JSU	$55.47	$103.35	$180.73
USM	$75.98	$111.80	$372.33
Average Group Rate	$66.55	$109.66	$293.28

BOARD'S EXHIBIT 363

BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING STATE OF MISSISSIPPI

Comparison of University Average Cost Per Credit Hour to Group Average Cost Per Credit Hour Formula 1982-83

Regular Session 1980-81	*Average Cost Per Credit Hour*		
	Lower	*Upper*	*Graduate*
Formula 1982-83			
ASU	$49.88	$104.87	$301.24
DSU	62.54	80.41	147.68
MUW	76.69	105.56	315.24
MVSU	44.75	71.26	61.56
Average Group Rate	$56.32	$88.47	$192.41
JSU	$45.07	$66.41	$151.62
USM	50.76	81.48	254.18
Average Group Rate	$48.14	$76.69	$209.32

BOARD'S EXHIBIT 364

BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING STATE OF MISSISSIPPI

Comparison of University Average Cost Per Credit Hour to Group Average Cost Per Credit Hour Formula 1981-82

	Average Cost Per Credit Hour		
Regular Session 1979-80	*Lower*	*Upper*	*Graduate*
Formula 1981-82			
ASU	$49.76	$ 85.24	$299.46
DSU	56.61	76.88	140.25
MUW	69.44	104.08	310.84
MVSU	34.88	57.99	70.82
Average Group Rate	$50.47	$79.90	$200.07
JSU	$39.47	$57.12	$155.40
USM	45.32	71.50	242.21
Average Group Rate	$42.47	$66.76	$205.05

BOARD'S EXHIBIT 430

RACIAL ANALYSIS OF FACULTY HIRING
PREDOMINANTLY WHITE SCHOOLS
1974 THROUGH 1986[1]

	Hires
Faculty:	
Total	3,457
Black	193
Black (Percent)	5.58
Expected Number Black[2]	139.9
Black Hire Shortfall (Persons)[3]	(53.0)
Units of Standard Deviation[3]	(4.57)

[1] University of Southern Mississippi hires from 1977 only and 1987 hires from Mississippi State University and University of Mississippi are included.

[2] Based upon availability estimates from NERA tables.

[3] Rounded to whole persons.

[4] Based upon the binomial probability distribution.

Source: NERA calculations based on faculty hiring data supplied by counsel.

BOARD'S EXHIBIT 431

RACIAL ANALYSIS OF FACULTY HIRING
UNIVERSITY OF MISSISSIPPI
1974 THROUGH 1987

	Hires
Faculty:	
Total	952
Black	61
Black (Percent)	6.41
Expected Number Black[1]	38.8
Black Hire Shortfall (Persons)[2]	(22.0)
Units of Standard Deviation[3]	(3.63)

[1] Based upon availability estimates from NERA tables.
[2] Rounded to whole persons.
[3] Based upon the binomial probability distribution.

Source: NERA calculations based on faculty hiring data supplied by counsel.

BOARD'S EXHIBIT 441

BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING STATE OF MISSISSIPPI

A POSITION PAPER ON REQUIRED HIGH SCHOOL UNITS EARNED AS AN ADMISSIONS REQUIREMENT TO MISSISSIPPI PUBLIC UNIVERSITIES

September, 1982

Beginning with the fall term of 1977, the Board of Trustees of State Institutions of Higher Learning required that all first-time entering freshmen students desiring to attend one of Mississippi's eight universities should first achieve certain American College Test (ACT) scores before being admitted. It was hoped that these minimum standards would cause students to become better prepared before graduating from high school as well as would indicate to the universities those students who would have at least a minimum possibility of being successful in college.

In response to a continuing large number of academically underprepared students who were entering the universities in Mississippi, the Board in December of 1979 passed a policy that mandated developmental studies (remedial) courses on each campus. This policy became effective for the fall term of 1980 and involved all first time entering freshmen who scored below 12 on the English and/or mathematics portions of the ACT. These classes were not counted toward meeting degree requirements but were considered prerequisites before regular English and/or mathematics classes could be taken.

Two factors remained particularly disturbing to the members of the Board. First, too many freshmen students were not academically prepared to be successful in a strong baccalaureate degree program. Ways had to be found to strengthen the knowledge base of students before they reached the universities. Secondly, the cost for developmental studies courses was running nearly one million dollars a year. This additional cost was coming at a time when funds for regular academic programs and faculty were stabilizing. The number of students who needed developmental studies courses was very large. Nearly one-third of the freshmen enrollment was involved in these courses.

Two questions now remained for the Board of Trustees to consider. One, is involvement in developmental studies to such a large extent desirable for universities? In other words, is this the best use of university funds and tax dollars of Mississippi citizens? The answer was clearly "no"! The other question addressed the effectiveness of ACT standards and developmental studies programs as stimuli to cause high school students to take more academic courses and to become better prepared. The answer was even clearer that these two activities were not effective for a significant number of students. However, it was confirmed that ACT standards do serve an important function as described earlier, as do developmental programs.

Dr. Rupert Lovelace, a member of the Board of Trustees, at the March, 1982 meeting of the Board called for a study of the possibility of requiring particular high school courses as part of the admissions standards to Mississippi's eight universities. The rest of the Board unanimously supported his request and directed its professional staff to conduct such a study.

The Board realized that it could not control the high school graduation requirements set forth by the Mississippi State Department of Education but that it did have the authority to determine which courses a student should have completed prior to entering a Mississippi university. Successful completion of certain essential academic courses in high school would provide a reasonable degree of assurance that entering freshmen would be prepared to attempt a university-level education. Unfortunately, Mississippi universities were not generally requiring a wide array of high school academic courses as a condition of entrance.

A survey was conducted of all other state higher education governing or coordinating boards to ascertain the extent, if any, that their states had begun requiring certain high school units earned as a condition of admittance. Of the thirty states that responded, twelve had specific activities on the topic, while most of the others were either in the process or in the talking stage.

The Board considered the results of the survey at its June, 1982 meeting. Proposed requirements were drafted and the staff of the Board was instructed to send the proposal across the state for reactions. Four hundred seventy-eight letters containing the proposal were mailed to superintendents, principals, school board chairmen, State Department of Education, education associations, junir colleges, senior colleges, selected legislators, and various other groups.

Fifty-three percent responded for the proposal as submitted, 27 percent responded positively with the exception of the foreign language requirement, and 20 percent responded negatively to at least two parts. The original proposal called for the following units as requirements: 4 English, 3 math (Algebra I, Geometry, Algebra II), 3 science (one of which must be laboratory based), 2½ social sciences (including U.S. History and American Government), and 1 foreign language.

In addition to the survey pertaining to the original proposal, a number of meetings were held with the State Department of Education, university academic officers, and high school principals to discuss the proposal. All agreed something along this line needed to be done. There was debate over the exact courses. The foreign language requirement provided the biggest obstacle. The science requirement was viewed by a number of people as being too flexible, and encouragement was given to name the specific courses so as to exclude the use of general science, home economics, and agriculture as acceptable courses in science for college bound students.

The Board also had to decide when to implement whatever proposal was finally adopted. The fall, 1982 entering ninth graders needed to have the full four-year opportunity to achieve the finally adopted proposal.

On July 15, 1982, the Board of Trustees adopted the following additional admissions standard for freshmen students entering one of Mississippi's eight public universities:

High School Units (Grades 9-12) Required for Admission to Public Universities in Mississippi for Freshmen Students Entering Fall Term, 1986

Subject	Units	
English	4	– All must require substantial writing components.
Mathematics	3	– Algebra I, Geometry, Algebra II
Sciences	3	– Choose from Biology, Advanced Biology, Chemistry, Advanced Chemistry, Physics, and Advanced Physics. One of those chosen must be laboratory based.

High School Units (Grades 9-12) Required for Admission to Public Universities in Mississippi for Freshmen Students Entering Fall Term, 1986—Continued

Subject	Units	
Social Sciences	2½	—Must include United States History and American Government.
Required Elective	1	—Choose from a foreign language or mathematics (above Algebra II) or a science (chosen from the science courses shown above).

It is also recommended that students pursue two units of foreign languages, take a mathematics course during their senior year, take a computer science course, and gain a level of typing proficiency.

Policies pertaining to transfer students and to special circumstances will be formulated at a later date.

There have been several questions since the adoption of these standards that have warranted answers. The difficult question of the effects of this policy on junior college transfers will be addressed in the fall of 1982 as will other special circumstances such as students twenty-one years of age and older.

Algebra I taken in the eighth grade will fulfill the Algebra I requirement but does not negate the need for three units of mathematics in grades 9-12. Neither General Science nor Physical Science is accepted as meeting the science requirement. The shortage of mathematics and science teachers is a key issue and must be addressed by the State of Mississippi. This long-term problem in these two disciplines cannot be solved by reducing the requirements.

The overwhelming public support that has followed the Board of Trustees' action on this issue has provided the

positive sign that Mississippi is ready for its educational system to make a turn around. The pendulum has been stuck on the negative side too long.

BOARD'S EXHIBIT 459

CHAPTER V
INSTRUCTIONAL COSTS AT RESEARCH UNIVERSITIES I

Larry L. Leslie and Paul T. Brinkman

INTRODUCTION

The purpose of this report is to compare instructional costs among eight Western Research Universities I[1] and to discern reasons for cost variations. The report consists of two parts: Part I presents basic cost data. The data reflect (1) cost comparisons among the three Arizona Universities; (2) institution-level cost comparisons among the eight Western Research Universities I; and (3) department-level cost comparisons for eight departments or fields of study within the eight Research Universities. Part II explores the reasons for cost variance among Research Universities I.

PART I: THE DATA

This report was commissioned to determine how costs at the University of Arizona compare with those at sister institutions. Cost analysis may allow an institution to identify where it may be more efficient or, simply, why its costs are what they are. In short the major, ultimate purpose served by a report such as this is to raise levels of institutional self-awareness.

Although the specific assignment for this report was merely to examine costs for a small number of departments in a small number of Western Research Universities I, the task was interpreted somewhat more broadly by the authors. Because it was known that state authorities invariably compare costs at all institutions under their pur-

[1] Carnegie Commission classification system.

view, it was decided first to develop an appropriate basis for comparing costs at the three Arizona Universities.[2] This comparison composes Section A of Part I. Second, it was deemed necessary, as background information, to compare aggregated or institution-level costs among the Research Universities. This is Section B of Part I. From these two bases, it was judged that the department-level comparisons—the actual assigned task—could be more readily and accurately interpreted. The departmental comparisons comprise Section C.

Section A: Aggregated Costs at Arizona Universities

The temptation is very great to compare directly the per student costs at the three Arizona Universities. Such comparisons, however, are precisely why "costing" has earned a bad reputation and the disfavor of many professional individuals and organizations. Such comparisons are largely without merit. They compare the proverbial "apples and oranges," for the three universities are not similar; they are expected to do quite different things.

The unique character of American higher education is embodied in the concept of *diversity*. Diversity is the quality that differentiates among colleges and universities. It is the quality of distinctiveness. This quality says that there is no better or best kind of collegiate institution; there are only different kinds, often with different expenses. There are, for example, community colleges, designed primarily to offer occupational and transfer curricula at a low cost to individuals who desire or need to continue their education close to home. There are four-year private colleges which offer a liberal education in a residential setting. And there are giant research univer-

[2] Indeed, the day this portion of the draft was written, the Arizona Board of Regents staff presented such comparisons to the Regents.

sities with broad curricula and research programs—universities which draw their students from across the state and nation, and universities that essentially offer every kind of program demanded by the citizens and the state.

The three Arizona Universities are distinctly different in these and other regards. They are of markedly different sizes and ultimately they have greatly different purposes. This fact has led the Carnegie Commission on Higher Education to classify them into different categories. The University of Arizona is classified as a Research University I, reflecting its heavy research and graduate emphases. There are no Research II institutions in the State. Descending down the scale of complexity, Arizona State is classified as a Doctorate-Granting University I, connoting that it does not have a major research function, in relative terms, but does have some doctoral programs. Northern Arizona University is classified as a Comprehensive University and College I, connoting that it is not primarily a graduate institution but does have a broad undergraduate curriculum.

The Carnegie and similar type classifications were designed to place collegiate institutions into comparable categories so that a number of comparisons could, in fact, be made. The notion was that one could properly contrast features and characteristics of similar kinds of institutions and thereby gain a quantity of useful information—recognizing that no two institutions are ever exactly alike and therefore are ever strictly comparable. Nevertheless, comparisons of similar institutions were seen to be far superior to contrasts of colleges and universities intended to do quite different things.

Table 1.1 was composed to provide a suitable basis for comparing the three Arizona Universities. Although for completeness per student costs are tabled as well, the "Index" columns contain the comparable data. Values in

these columns were computed by setting the average cost equal to 100 for all institutions in the category nationwide. Thus, for example, Arizona State University has a per student indexed instruction cost of 88.7, compared to a national average of 100 for all Doctoral-Granting Universities I. Similarly, NAU has an indexed cost of 100.6 and the University of Arizona has an indexed cost of 84.9. Thus, in relative terms, for their kinds of institutions, all three are relatively efficient of instructional costs, with NAU being relatively the highest cost and the U of A being the lowest. The fact that the order is reversed when one views the dollars expended per full-time-equivalent student reflects the greater normative expense of the Research University.

Indices for Northern Arizona University are higher than those for the University of Arizona in eight of the 11 categories. The respective indices for Arizona State University and the University of Arizona differ widely in four categories: research, academic support, operation and maintenance of plant, and unrestricted scholarships. However, it would seem that the most important difference between the latter two institutions is the much greater emphasis placed on research at the University of Arizona. Not only do their actual per student expenditures for research differ widely, namely, $1,701 at the University of Arizona compared to $168 at Arizona State University, but their corresponding indices contrast as well, as 110.7 versus 33.9, respectively.

Of the three Arizona institutions, Northern Arizona University has the highest costs, relative to institutions with similar missions. On the same basis, the costs at Arizona State University and the University of Arizona are, on the whole, rather similar. Excluding mandatory transfers, the average index is 96 for Northern Arizona, 77

Arizona. Excluding mandatory transfers and research, the average indices are 91, 81, and 75, respectively; and if the two scholarship categories are also excluded, the indices are 92, 72, and 78, respectively.

Section B: Aggregated Costs in Eight Western Research Universities I

The eight Western Universities in the category with the University of Arizona represent the majority of such public universities in the western United States. The institutions were selected to provide geographic and population balance.

Table 1.2 shows expenditures on a per student basis, expenditures on an indexed per student basis, and raw expenditures, respectively, for the eight institutions. In terms of expenditures per student, the eight institutions seem readily to fall into two groups: Berkeley, Davis, Los Angeles, and Washington in the high cost tier; and Colorado State, Texas A&M, Arizona, and Utah in the low cost tier. Instruction and Departmental Research expenditures at the University

* * * * *

TABLE I.1

Educational and General Expenditures Per Student FTE and Indices (Average Based on 100)
1976-77

	Arizona State University (1.3)		Northern Arizona University (2.1)		University of Arizona (1.1)	
	Per Student	Index	Per Student	Index	Per Student	Index
Instruction	$1,625.62	88.7	$1,476.44	100.6	$2,099.68	84.9
Research	168.18	33.9	111.07	140.5	1,701.49	110.7
Public Service	91.43	40.4	71.34	92.6	262.45	49.3
Academic Support	405.54	99.8	203.77	74.3	407.46	67.9
Student Services	151.83	71.9	137.87	72.1	159.88	73.3
Institutional Support	239.46	59.1	275.70	85.8	323.14	71.9
Oper. & Maint. of Plant	324.72	77.6	439.80	125.6	639.03	110.5
Scholarships & Fellowships Unrestricted	63.67	101.0	39.02	100.0	14.47	14.6
Scholarship & Fellowships Restricted	120.90	117.3	60.96	73.4	204.07	115.9
E&G Mandatory Transfers	5.02	4.9	.00	0	3.48	6.8
Total E&G Expenditures and Mandatory Transfers	3,196.44	75.0	2,816.00	95.2	5,815.19	86.6

Source: Annual HEGIS Survey

BOARD'S EXHIBIT 461

BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING

PILOT REVIEW OF EXISTING ACADEMIC PROGRAMS

In August of 1980, the Board of Trustees called for a review of existing academic programs under the direction of the staff of the Board. The staff subsequently developed, with institution input, a procedure for the review, the criteria to be reviewed, and the document for gathering such data. All data were submitted by the institutions by June 30, 1981, on the three disciplines to be reviewed. The three disciplines in the pilot review were French, Chemistry, and English.

A consultant was hired to assist the staff for each of the disciplines. Hearings were held for each discipline involving institutional representatives, the Board staff, and the respective consultant. Each institution was given an allotted time for its hearing. No institution was present at another institution's hearing.

The consultants were instructed to be candid and to the point. They were to address the strengths of each program as well as the weaknesses and to then provide time for institutional clarifications for any misinterpretations by the consultants.

The formal report issued by each consultant is available. A summation and staff recommendations follow:

FRENCH

Consultant – Dr. Frederick W. Vogler of the University of North Carolina – Chapel Hill. Dr. Vogler is presently serving as Associate Dean of the College of Arts and Sciences.

All existing programs in French were examined by Dr. Vogler. Admission to the baccalaureate programs at

Alcorn State University and Mississippi Valley State University had been suspended by the institutions prior to the review process. Some questions arose as to the nature of the master's degree in Foreign Language that exists at Mississippi State University. This program was not reviewed. Clarification will be made.

Baccalaureate programs are currently available in French at Delta State University, Jackson State University, Mississippi State University, Mississippi University for Women, University of Mississippi, and the University of Southern Mississippi. Master's programs in this major may be pursued at the University of Mississippi and the University of Southern Mississippi.

The consultant and the staff are comfortable with the baccalaureate and master's degrees available at the University of Mississippi. These should be the only baccalaureate and graduate programs available in French. The number of people seeking French as a degree program at any level at all of our universities is very low. All French programs, with the exception of those at the University of Mississippi, should serve an active role in a service responsibility to other degree programs but should not be retained as degree programs themselves. Mention should be made in fairness of the consultant's positive statements about the program at Mississippi State University.

One baccalaureate and one master's degree program would sufficiently meet the needs of the citizens of this state for a degree program in French. This action will not deprive students at Mississippi universities from taking the number of French courses necessary to meet program requirements in other majors.

CHEMISTRY

Consultant—Dr. James Traynham, Professor of Chemistry at Louisiana State University. Dr. Traynham

consulted for the Board of Trustees in August of 1979 regarding a request from Alcorn State University. He has served on numerous visiting teams for the American Chemical Society.

Programs examined by Dr. Traynham included the baccalaureate programs at Alcorn State University, Mississippi State University, Mississippi University for Women, and Mississippi Valley State University. The baccalaureate programs at Delta State University, Jackson State University, the University of Mississippi, and the University of Southern Mississippi surpassed the minimum number of graduates necessary to bypass the review procedure. All master's degree programs available were examined. These are at Delta State University, Jackson State University, Mississippi State University, the University of Mississippi, and the University of Southern Mississippi.

The baccalaureate programs at Alcorn State University, Mississippi State University and Mississippi University for Women were all credible. Although the consultant did not recommend the discontinuance of any of the four programs reviewed, the staff urges the Board to immediately suspend further enrollment into the degree program at Mississippi Valley State University. The number of participants has increased recently, but this activity does not warrant expending the resources necessary by Mississippi Valley State University to upgrade its program to an acceptable level. There are obvious immediate equipment and library needs. These two categories of need are readily apparent in many other areas at Mississippi Valley. Existing programs can easily handle the number involved at Mississippi Valley. There is an excellent program available at Delta State University only forty miles away, and there are two other historically black institutions with much stronger programs.

Although the consultant made note of the small course enrollments at the master's level in Chemistry at Mississippi State University, the University of Mississippi, and the University of Southern Mississippi and also noted that faculty workloads would be envied at Louisiana State University, he did not recommend the cessation of any of the three programs. His decision was based primarily on the fact that the doctoral programs at all three had been previously reviewed and that all three had been retained by the Board of Trustees. The cross enrollment of undergraduate and graduate students in courses at Mississippi State University is a detriment to the program.

The faculty in the master's program at Jackson State University are underproductive in research and publications. He reminded them that the Master of Science is a research degree and that the faculty should serve as models to the studnets. The Delta State University program has few graduate students enrolled in graduate courses. Faculty research and publications are not supportive of this program. The consultant stated that there is no apparent need for this master of science program.

ENGLISH

Consultant – Dr. David Stewart, Chairman of the Department of English at Texas A & M University. Dr. Stewart was highly recommended by the Modern Language Association.

All baccalaureate English programs qualified for review with the exception of those at Mississippi University for Women, the University of Mississippi and the University of Southern Mississippi. Master's programs at Delta State University and Mississippi State University were examined while the same level was bypassed at Jackson State University, the University of Mississippi and the University of Southern Mississippi. Admission to the master's program

at Mississippi University for Women had been suspended earlier by the institution. The sixth year programs at the University of Mississippi and the University of Southern Mississippi were also reviewed.

One overriding recommendation made by Dr. Stewart was to encourage the use of graduate faculty to teach lower level composition courses either regularly or on a rotating basis at those institutions with graduate programs.

As expected, all baccalaureate programs reviewed were recommended to continue. However, there were noteworthy concerns. Questions concerning library adequacy and faculty credentials were raised about Alcorn State University's program as well as some fear of the extent of the interdisciplinary action being taken. The institution's comprehensive exam for sophomores was applauded. Delta State University's program should be wary of excessive teaching loads. Otherwise, the program was cited as being strong. An excessive teaching load was also apparent in the Jackson State University program. An unusually mature and stable faculty was regarded as a strength.

The baccalaureate program at Mississippi State University is endowed with an exceptionally strong faculty for which it is to be commended. The teaching loads, however, were unusually small. Mississippi Valley's program needs more qualified faculty. The two Ph.D. faculty members were added only recently. In addition, most of the faculty have their degrees in education rather than in English. The library must be severely upgraded.

The faculty in the master's degree program at Delta State University is commended for its participation in professional development. However, the small attraction to this program, coupled with the excessive loads it places on a faculty that would be fully utilized with the present

undergraduate program, does not warrant its continuance. The suspension of admissions to this program would allow the faculty and the institution to direct their attention to the progress of the well established baccalaureate program.

Both sixth-year degrees, the specialist at the University of Mississippi and the Master of Philosophy at the University of Southern Mississippi, have low enrollment. These degrees are simply stopping places between the master's degree and the doctorate. There are truly no additional costs for having this degree. Comments were made by Dr. Stewart that the University of Southern Mississippi program should have a language requirement and a comprehensive exam for a program of this level. No action is recommended for either program.

BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING

SUMMARY OF PROGRAM REVIEW FOR FRENCH, CHEMISTRY, AND ENGLISH

French

Baccalaureate –

1. Retain the program at the University of Mississippi.
2. Discontinue the programs at Delta State University, Jackson State University, Mississippi State University, Mississippi University for Women and University of Southern Mississippi.

Master's –

1. Retain the program at the University of Mississippi.
2. Discontinue the program at the University of Southern Mississippi.

Chemistry

Baccalaureate –

1. Retain all programs with the exception of one.
2. Discontinue the program at Mississippi Valley State University.

Master's –

1. Retain the programs at Jackson State University, Mississippi State University, University of Mississippi, and University of Southern Mississippi.
2. Discontinue the program at Delta State University.

English

Baccalaureate –

1. Retain all programs

Master's –

1. Retain all programs with the exception of one.
2. Discontinue the program at Delta State University.

SUMMARY OF PROGRAM REVIEW FOR FRENCH, CHEMISTRY, AND ENGLISH – Continued

English – Continued

Sixth-Year –

1. Retain the programs at the University of Mississippi and University of Southern Mississippi.

11/19/81

BOARD'S EXHIBIT 463

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

No. GC 75-9-WK-P

JAKE AYERS, ET AL., PLAINTIFFS

UNITED STATES OF AMERICA, PLAINTIFF-INTERVENOR

v.

WILLIAM WINTER, ET AL., DEFENDANTS

Washington, D.C.
Wednesday, September 16, 1981

Deposition of:

ALBERT BERRIAN

called for examination by counsel for the defendants, pursuant to notice, a copy of which is attached to the court copy of this deposition, in room 7724, United States Department of Justice, 10th Street and Pennsylvania Avenue, Northwest, Washington, D.C. 20530, beginning at approximately 9:00 o'clock, a.m., before PATRICIA N. LOCKE, a Notary Public in and for the District of Columbia, when were present on behalf of the respective parties:

* * * * *

[30] Q. Is the University of Florida as high as 8 percent?

A. I would hope so.

Q. So would I, doctor, but I had the impression it was not and I was hoping you could help me with that.

A. I'm not up on those data. Now, I know generally how the percentages run, but I'm really not up on the individual States. But some flagship institutions are higher and some lower.

Q. Well, you just worked—excuse me.

A. Go ahead.

Q. You just worked a lot in Louisiana?

A. Yes.

Q. What's the percentage of black student enrollment at LSU?

A. LSU was around 7 percent and they have projected, I think, about a 11 percent enrollment over the next four or five years.

Q. Well, we'll talk about projections in a minute.

A. All right.

Q. But in actuality LSU is about 7 percent?

A. Somewhere in that range

Q. Again, under this 8 to 14 that you mentioned?

[31] A. Right.

Q. And that's in a state, is it not, where any person with a high school diploma can enter LSU if he or she chooses?

A. That's correct.

Q. Is the University of Georgia as high as 8 percent?

A. Georgia I have not looked at at all. I don't know why. It is a State where my roots are, but I just haven't looked at Georgia.

Q. Is the University of Kentucky as high as 8 percent?

A. I would say at least 8 percent or higher at the University of Kentucky. I know the University of Louisville is higher and I think maybe Kentucky since only 14 percent of the black students in Kentucky go to the traditionally black institution.

Q. Well, I don't want to get in trouble with the United States and I don't want to come out to your place and make any improper request, but I'm assuming the data that you have at your institute is available?

A. It is available. I do have data that will give me the percentage in every State which I have gotten from the National Council on Educational Statistics. I simply haven't screened the data and pulled the information.

* * * * *

[56] BY MR. GOODMAN:

Q. A moment ago, we alluded to the diversity among institutions within a statewide system.

A. Right.

Q. Should there be diversity among institutions, just like among people?

A. I would think so.

Q. In higher education, does that diversity usually range from two-year institutions all the way up through Ph.D.-granting institutions?

A. It does. Even from technical institutes in some cases up through Ph.D.-granting institutions.

Q. In this country, are there generally accepted ways to classify levels of institutions?

A. There are several ways. I guess the most common today is the so-called Carnegie classification or the five-scale classification, beginning with a two-year institution and moving up through the major Ph.D.-granting institutions.

Q. Well, are those five classifications roughly, first, two-year institutions?

A. Right.

Q. Second, four-year baccalaureate institutions?

* * * * *

[66] I don't think that any institution should turn out a student who is not really deserving of a college degree as defined in some irreducible minimal terms.

Q. To be sure there should be certain minimum standards.

A. Right.

Q. But, accepting that, you would then expect different standards at different institutions?

A. I would expect that.

Q. And not in Mississippi alone, but everywhere?

A. Everywhere.

Q. Who should determine the standards above those minimals at each institution?

A. I would think that the faculty would do that. That is where it would begin. The faculty would make that determination.

Q. As an educator, is it your belief that the state would set the minimal standards and then the academic community at each institution would determine how far above that?

A. I would say yes.

MR. HEUBERT: I would like a clarification.

When Dr. Berrian referred to the term "minimums," he was referring to exit minimums. Is that the sense in which

* * * * *

[108] maybe it needed another institution or so was I had the feeling that the population as a whole might be somewhat underserved by the higher education enterprise.

Q. What are the national averages of high school people going on to college?

A. It varies. I would say about 70 percent. Of course you get a State like New York, which is pretty wealthy, you have about 80 percent going on to college.

Q. But you have not investigated that in Mississippi?

A. No.

Q. How long did you spend at Jackson State?

A. I spent a half-day at Jackson State.

Q. Is Jackson State important to your series of findings that you've made and that you expect to testify concerning at the trial?

A. I would say so. I would say it's important since it has such a large percentage of the black students going to college in Mississippi that this would make it a very important institution.

Q. What did you find about Jackson State's progress as an institution in recent years?

A. Jackson State has made about as much progress as [109] any institution in the country. In fact, if you look back over a 10-year period, it is probably in the forefront of institutions making progress with the possible exception of Howard University.

Q. For the record, where is Howard located?

A. In Washington, D.C.

Q. How would you evaluate Jackson State University's progress, say, as compared to Southern University in Louisiana?

A. I would say that if one looks at the two institutions today, that I would rate Jackson State a stronger institution than Southern University in Louisiana.

If one takes a look at the projections for Southern University, future projections, I would say that Southern will very likely become a stronger institution than Jackson State if the State implements its plan. One reason is that

it also has a land-grant mission which, if carried out, would give it certain added inducements.

But today I would say Jackson State is a stronger institution.

Q. In rating institutions you are looking at program quality, program type, are you not?

A. Yes, I am looking at that. Also faculty quality,

* * * * *

[157] in an ACT tabulation about black freshmen that did not include Jackson State, would you, sir?

A. I think I might, because I don't think that the freshmen at Jackson State are significantly different from those at the other two black state colleges.

So I would assume that their profiles are very similar to those at Valley and Alcorn.

Q. We are dealing with averages, though, aren't we, Doctor?

A. We are.

Q. If we exclude almost half of the people we are trying to describe, do you still feel we would have average—that it would have meaning and value?

A. I would think that, given the relatively homogeneous nature of the black population, that one could safely assume that you could take the average from the other two black colleges and ascribe it to Jackson State and not be too far off in your description of the problem.

Q. Is Jackson State a more comprehensive university than Alcorn?

A. Very much so.

Q. Is it a more comprehensive university than Valley?

[158] A. It is.

Q. Didn't I understand you to say this morning that better students tend to gravitate to more comprehensive universities?

A. Normally.

Q. So, based on that, wouldn't we assume that higher proportions of better equipped black students would enroll at Jackson State University?

A. I think higher numbers. I don't know about higher proportions, but higher numbers.

Q. Does Jackson State University draw a substantial percentage of its student body from the Jackson, Mississippi, area?

A. It does.

Q. Do you have any figures on that?

A. I don't. There are some charts, however, which reveal that information.

There is a chart here which lists the counties comprising the service areas of various institutions, and I have a list of the counties from which Jackson draws, and Jackson is one of the counties.

Q. Well, Hinds County is where Jackson, Mississippi, is

* * * * *

[160] In other words, is a 21 so close to a 22 that you wouldn't make much distinction?

A. At certain points I would make a major distinction, and at certain other points I might not.

I don't think I would make as much distinction between a 10.9 and a 12.1 as I would between a 14 and a 16.

I think we are dealing, with the 14 and 16, with people who are marginally close to being at a certain point.

But when you get down in the 10s and 11s, the gap from where they ought to be is so wide that it simply mens that the remedial problem is a little more intensive.

I think that the differences, as you go down, they are not as significant as the differences might be when you moved up the scale.

Q. Is the truth of it that a 10 or an 11 just is drastically low?

A. It is drastically low.

Q. By any sort of national average, that sort of person is not reflecting a level of preparedness for college work, is that right?

A. He is certainly not reflecting a level of achievement, [161] academic achievement, for college work.

The person might be prepared psychologically. The person might be prepared in terms of potential; but certainly not in terms of achievement.

Q. So, unless that person was feeling bad that day or, you know, there was some problem with that, it is either a question of remedial education or further precollege education?

A. I would say that the person needs developmental education.

I am making a slight distinction between remedial and developmental.

I am seeing developmental as being more sophisticated than remedial, although the terms are sometimes used synonymously.

Q. Putting aside for the moment social factors, I am trying to find out from you if Jackson State University is or has an educational basis for admitting students with scores of 10 or 11?

A. I'm not familiar enough with what they do to say, since I haven't really taken a look at how they address the question of dealing with the students that they get as they

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[74] **TESTIMONY OF DR. CLIFTON F. CONRAD**

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Q. Curricular duality, you used the term program duplication. Could you identify for the Court the components of the program duplication?

A. If I understand your question, I—I think it is useful and I think this follows from the revised statutes, federal statutes written in 1968 as relative to this litigation. I break down program duplication into two subparts.

One of those is a necessary or essential duplication, and the other refers to unnecessary or nonessential duplication.

[75] If I understand your question, let me briefly define each of those. Two different types—I repeat two different types of program duplication. One of which is called necessary, the other unnecessary.

In the case of the former, a program I define as necessarily duplicated, if the presence of that program is essential for the provision of general education and specialized education in the basic liberal arts and sciences. It refers—this definition refers to the baccalaureate programs; that is to say all necessary or essential programs are considered to be at the baccalaureate level, and all of those programs that do not meet this definition are, of course, nonessential. Nonessential programs.

In short, the first definition, then, the first subpart of the program definition—program duplication and necessary duplication simply refers to the core programs. Programs that are considered to be essential.

For example, history, political science, psychology, biology, basic core programs that any institution of higher education, if it is to consider itself as such, should offer. That I define as necessary duplication.

On the other hand, there is the concept of unnecessary duplication.

* * * * *

[76] A. A—In referring to unnecessary duplication, I refer to those instances in which two or more comparative institutions offer nonessential or noncore programs, unnecessary duplication, two comparative institutions are offering programs, the same programs, say sociology—not sociology but say pharmacy or whatever program that are nonessential or noncore. That, I consider to be unnecessary duplication.

I repeat, in those instances where the programs are judged to be—to be nonessential.

It may be further clarifying in the case of these two definitions for the purpose of the Court, that I do define very concretely in the—in my report for 1981 necessary programs that are considered to be necessarily duplicative. I referred earlier to sociology, political science and psychology.

Table four in my report for 1981 identifies those [77] programs which when they are offered at two or more comparative institutions can be considered necessarily duplicative.

* * * * *

[84] In addition, in 1981, I also made some other comparisons. It strikes me that it is also very important to make comparisons between particular sets of institutions with one—with one institution being a traditionally white institution and another being a traditionally black institution.

In 1981, I made five such comparisions. One comparison was between the University of Mississippi and Jackson State University. The second was between

Mississippi State University and Jackson State University. A third was between the University of Southern Mississippi and Jackson State University.

In other words, the first three comparisons involved the three comprehensive traditional white universities and Jackson State University. The fourth comparison was between the relatively geographically proximate institutions, Delta State University and Mississippi Valley State University in Itta Bena. The fifth comparison was between Alcorn State University and the University of Southern Mississippi.

So, there were, in short, in addition to the grouped comparison, there were five comparative sets of institutions that I looked at as well.

Q. Did you examine the same institutions in 1986 that you examined in 1980?

A. I did not. In 19—essentially I did with one exception. [85] I added a comparative group in 1986 when I did my study. It seemed important to me—in 1987 I did the study really. It seemed important to me to compare the two land grant institutions in the state, since one is a traditionally black institution, Alcorn State University, and one is a traditionally white.

I did add a sixth comparative group, and that is being historically black Alcorn State University and the land grant Mississippi State University.

Q. In 1981, did you do any comparison of the four degree-granting centers?

A. I looked at the degree granting centers briefly. I did not look at them in great depth.

What I wanted to see was if there was—were differences in the evolution of the degree granting centers in the State of Mississippi between 1954 and 1980.

Q. Did you review the degree granting centers in 1986?

A. I did not.

Q. What criteria did you use in selecting the institutions to be used for the comparison purposes?

A. The major criterion that I have used in this case has to do with overlapping service areas. It seems to me—and there is a good bit of variance here—but in varying degrees. it can be said that each of the eight institutions in—in the State of Mississippi draw students from throughout the [86] state.

Now, there is a good bit of variance there. I would be the first to acknowledge. It is because these institutions draw students from across the state that it becomes, I think, particularly important to make comparisons between the grouped institutions, the traditionally white institutions on the one hand and traditionally black institutions on the other.

At the same time, the service areas where institutions draw their service, their students from, some of those areas overlap more than others. A good case would be Jackson State University, which attracts students not only from Jackson, I think, but also from throughout the state, as certainly does the University of Mississippi. A relatively small town that draws students from here in Oxford from across the State of Mississippi, as well as across the South and the rest of the country.

So overlapping service area was the major criterion that formed my choice of both of grouped comparisons, as well as between five comparative sets in 1981 and six in 1986.

There are also some other reasons that I refer to my 1981 report. Certainly, I think it is important to compare Jackson State University, the most comprehensive of the three traditionally black institutions with the major traditionally white comprehensive institutions in this state, the

University of Southern Mississippi, Mississippi State and University [87] of Mississippi.

Finally, I should emphasize that adding, as I have intimated already, the comparison between the two land grant schools was important for the simple reason that both our land grant institutions, similar mission at least historically, and that seemed to me to be in retrospect an important comparison to make, such that I have added that for my 1986 analysis, even though I could not have it in the 1981 analysis.

* * * * *

[96] Q. Did you study unnecessary program duplication?

A. Yes—and—I did.

Q. How did you determine which programs are necessary?

A. I provided you earlier with a definition of necessary programs. I referred to those basic programs, core programs in the liberal arts and sciences that any self-respecting institution of higher education would have. If you will turn to table—I believe it is table four.

MS. YOUNGER: Exhibit 482, Your honor.

THE COURT: Okay.

THE WITNESS: Forgive me. It is table six.

MRS. YOUNGER: 485.

THE WITNESS: Based on my definition here, I identify necessary programs or more precisely—and this is the way I would wish to say it—programs in which if there is a duplication between any comparative sets of [97] institutions, that it should be considered necessary because it is—institutions—higher education institutions, I think it should be clearly permitted to offer programs within these areas. The biological sciences and education and foreign languages, math, physical sciences and so on, so the par-

ticular programs that are listed here in table six, I refer to the HEGIS number, as well as the discipline by name.

Those are programs that are considered necessary. Any programs that fall outside this operational definition that are not displayed here in table six are automatically classified as unnecessarily duplicated. That is that they would not be considered core programs like these programs right here.

* * * * *

[103] Then I looked at what had happened between 1966 and 1974, and finally between 1974 and 1980.

Q. All right. Now, what conclusions did you reach in terms of program equality when you compared the traditional black institutions in 1954?

A. Well, when I—compared them with the traditionally white institutions?

Q. That's correct.

A. Well, when I compared them with the traditionally white institutions in 1955, really, I saw that or found that there was what I interpreted as quite different overall program quality.

On the one hand, you had the traditionally white institutions, two of which were doctoral granting institutions. I refer to the University of Mississippi, here in Oxford, as well as Mississippi State University. The later had very few doctoral programs but both of them were doctoral granting institutions. The—

Interestingly, most of the institutions in the State of Mississippi were very much oriented toward teacher education. Even all eight of them, but the traditionally white institutions—and I refer particularly to the three comprehensive universities, U.S.M., U.M. and M.S.U., had much greater range of programs than did the traditionally black institutions.

[104] It is particularly notable that in 1955, three of the five traditionally white institutions offered graduate study. Only one traditionally black institution offered graduate study or graduate master's program in education at Jackson State University.

I thought it useful in writing this section of the report to refer to the Bruton Study that was done in the mid-1950's, which did in part examine—make program comparisons between the traditionally black and traditionally white institutions in this state.

It found, if I may quote, "great inequalities in the area of higher education."

Black students' opportunities are limited in the three traditionally black colleges, "to undergraduate training in teacher education, agriculture and the mechanic arts and in the practical arts and trades."

Overall, and in summary, the traditionally white institutions had much broader scope and range of program offerings and they offered programs certainly at a higher level, as I have indicated, as well as a far greater number of programs, such that in brief I concluded that there was program inequality, rather substantial program inequality.

Based on these indicators in the mid-1960's, between the two sets of institutions, with the traditionally white institutions I found to be of higher quality and broader [105] missions.

MS. YOUNGER: For the Court's convenience, the Bruton Study to which Dr. Conrad has referred to is Government's Exhibit Number 29.

Q. Dr. Conrad, what conclusions did you reach in terms of the issue of program quality in the traditionally white institutions and the traditionally black institutions from 1954 to 1980?

A. To 1980?

Q. 1980, yes.

A. Well, I did another—I looked again in 1966 to see what had happened.

Over the ten year period from the 1950's to the 1960's, both sets of institutions did add—did add a number of programs, and I have several tables in the text. I don't know if you want to refer to them, but I could summarize, I think, this way.

By the mid-1960's, all five of the traditionally white institutions, that included again the three comprehensive institutions, plus Delta State, and—the three traditionally white institutions, University of Mississippi, Mississippi State, and the University of Southern Mississippi, Delta State University and—oh, Mississippi University for Women.

I am sorry. I have been sitting here too long, I guess—all five of them offered graduate work by the mid-1960's. [106] The—at the TBI's by the mid-1960's, there were only a total of three master's programs that were offered. All of them offered at Jackson State University.

So, in terms of the level, kind of range or scope of programs, the traditionally white institutions had expanded their scopes modestly over this ten-year period, such as two more institutions had added graduate programs, in contrast to ten years earlier, but there were also programmatic gains relatively modest in terms of the number of programs, both in the traditionally white and traditionally black institutions.

Overall, the pattern of inequality that I found to exist in the mid-1950's with regard to the level, number and range of program offerings, was roughly the same in the 1960's, particularly the mid-1960's.

I then looked at the period from 1966 to 1974. A period that in this state, like in so many other states across the

United States, was a period of considerable growth in higher education.

Of course, what we found in this period was major expansion in this state, like so many others. Many, many programs were offered. New programs were offered. This is the major growth period in the State of Mississippi in terms of higher education.

Of those new programs that were initiated, the TWI's or traditionally white institutions added many more.

[107] Basically, the same general pattern of inequality existed in 1974 that had in 1966. I am not saying that it was exacerbated over this period. I am suggesting that the program differentials in terms of these indicators of number and level or range of program offerings were such that the basic structure of inequality that had existed all the way back in the mid-1950's and earlier, apparently, continued to exist.

I think particularly notable that in terms of the scope or level of programs offerings that in the mid 1970's, 1974 specifically, that the traditionally white institutions offered the only doctoral program in the state. The three comprehensive traditionally white institutions offered – All offered doctoral programs.

In addition to looking at program growth in the mid 50's and the mid 60's and the mid 70's, as it were, across the eight institutions, I thought it was also important to take a look at the growth of the resident and degree granting centers in the State of Mississippi from 1954 to 1974.

That is, I think, particularly important in this state, because Mississippi, more than almost any other state that I know of in the country, has utilized off campus education as a vehicle for helping to provide access to higher education to people from throughout the state.

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[109] The—If I were to summarize, then, over this twenty, twenty-five year period that you asked me about from 1954 to 1980, I would say that there was expansion both in the traditionally black and the traditionally white institutions, and both of them began to offer programs at slightly higher levels in a few instances and more had a greater range of programs.

In addition, as I have just mentioned, the—there was a rapid growth in the off campus education in the State of Mississippi. That, by and large, was—was choreographed by the traditionally white institutions.

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[121] If I were to respond to the entire period, I would say that what is significant is as follows. In 19—in 1955, we found a pattern of instructual inequality between the historically black and the historically white institutions, but that the traditionally white institutions offering much more comprehensive program offerings, programs at a higher level, many more programs, at the same time the traditionally black institutions, as I have said before, were relatively small, smaller institutions with much more modest admissions over the ensuing twenty-five year period.

There was a growth, programmatic growth in both sectors, in both in the traditionally white and traditionally black institutions, but notwithstanding the enhancement of both of the program offerings and traditionaly black and the traditionally white institutions.

I think the important fact is that the basic structure of inequality that existed in 1954 and 1955 as regards academic programs continued to exist in 1981.

Q. Did you examine program equality into two sets of comparative institutions in 1980?

A. I did.

Q. All right. What, if anything, did you find?

A. I looked at program equality in 1980, because I wanted to take a systemic look at where the respective of the sets of the institutions were in that year, and in order to—[122] by way of backgrounding, in order to look at program equality in 1981, I wanted to look at some important indicators, I thought of relative status for programs in these two sets of institutions.

I looked at four indicators of program equality in 1981. Three of them I have been talking about all the way through. Namely, the number, level and range of the program offerings. And then I added a fourth, which is a very direct measure of quality, and that is I looked at the quality as measured by professional accreditation.

So, those were the four indicators that I used.

Q. Were other indicators that you would have liked to have looked at?

A. Very much so.

Q. What were those indicators?

A. They would include the indicators looked at in 1986 and 1987, primaily the spring, as well as some other ones. One of the problems with using indicators, it is often hard to get data on certain kinds of variables like class size, for example, but I would—had I gone back and been able to do a fuller more complete approach in 1980, 1982, for example, I would like to have looked at faculty vitas and get some better sense of the faculty, scholar productivity in particular.

I think that would be important to do. It would tell [123] me some things about program quality, so I would use a broader range of indicators than I did in 1980. This is fairly—I don't want to say too narrow, but it is a—I would like the band to be wider in looking at indicators of quality—of quality, but at the same time I think I can say

that one can get a handle on the program offerings by looking at accreditation reports, reports that the professional groups look at for quality of programs.

Q. Dr. Conrad, I would like to direct your attention now to table sixteen, seventeen, eighteen and nineteen, which are Government's Exhibit 496, 497, 498, and 499.

Will you go through each table and explain how it was constructed and state what conclusions you reached with respect to what particular table?

A. Let me begin with table sixteen. That tells us something about the number of programs and offerings when we compare the two sets of institutions, the traditionally white and traditionally black.

On the left-hand side is certainly the level of the program offering, certificate all the way through doctoral and then you have your institutions located across the horizontal axis.

You can see, for example, the number of programs listed at each level for the University of Mississippi or for J.S.U., for that matter, over on the right-hand side of the page.

[124] You see, for example, that—Now, Mississippi State University offered a total of two hundred and four programs in 1981, while Jackson State University offered a total of eighty-eight.

As you can see here, the—by way of explanation, that the traditionally white institutions in 1981 all offered the traditionally—the comprehensive traditionally white institutions, University of Mississippi, Mississippi State University, and the University at Southern Mississippi offered many more programs than the three traditionally black institutions.

There is, and you find this over the thirty year period, rough comparability in the number of program offerings

between Jackson State, Alcorn State and Mississippi Valley and the two that are now classified for the Board of Institutions of Higher Learning as regional. Namely, white institutions. Namely, Delta State University and Mississippi University for Women.

Q. Table seventeen, Exhibit 497.

A. Page seventeen is just an aggregate of table sixteen, and what you see is when you group institutions you see, for example, that the average number of programs in the traditionally white institutions at the baccalaureate is seventy-seven. The comparable figure in the TBI's is forty-one.

[125] If you go down to the doctoral, for example, average number of programs per institution is twelve point two, and the figure as you see here. In the other you see only one as we said, doctoral program.

Q. All right. Table eighteen, Exhibit 498?

A. Range may be used as – let me define range. Range refers to the number of fields in the HEGIS typology that we discussed earlier, as you see here. We will list for each institution degree levels.

By way of interpretation, you will see here that the traditionally black – white institutions tend to offer more programs across degree levels at the bachelor's level.

For example, the University of Mississippi offers twenty-one programs in twenty-one major fields, while Jackson State University offers programs in fourteen.

You can go all the way down to the doctoral level, where the University of Mississippi offers them in twelve major fields, while there is, of course, just one at Jackson State and none at the other two.

Table nineteen is, again, an aggregate of that. The average – you can tell the average number of major fields per institution, and you see at the bachelor's level, the

average number of major fields appear in the traditionally white institutions is nineteen, and the comparable figure on the traditionally black institutions is twelve point seven.

[126] It gives you a notion of some indication of the range of program offerings.

Q. What does professional accreditation mean?

A. There are two major kinds of accreditation. One is regional accreditation, done by a regional accrediting association like the Southern Association or North Central. The other is professional accreditation.

There are many fields, including fields in the liberal arts and sciences, but notably in the professional programs that are credit programs, from chemistry to business and certainly education, the major disciplines we usually think of. Those visits are made on a periodic basis. Judgments are made about whether a particular program should or should not be accredited.

Q. All right. Will you review table twenty and state what conclusion you reached with respect to that exhibit, and also table twenty-one?

A. If I may explain just a little bit more on table twenty. There is a column that shows the number eligible for accreditation, recommending that. Not all programs were—can be accredited.

This figure refers to the number of programs that are reviewed for purposes of accreditation or as the case may be, nonaccreditation.

We find here in table twenty that across the traditionally [127] black institutions of all the programs eligible, professional programs eligible for accreditation that only fifty-two percent, and I say only because that is really a very low figure. Only fifty-two percent are or were accredited by their respective accrediting agency.

In the traditionally white institutions, the figures are quite a bit higher. For example, at the bachelor's level in the aggregate, you find that seventy-two percent of the programs at the bachelor's level are accredited of those that are eligible, so there is a fairly – in terms of interpretation of the table, the traditinally white institutions are more likely to have accredited programs than are the traditionally black institutions in 1981.

Q. All right. Table twenty is Government's Exhibit 500.

A. Table twenty-one, which you also asked about is really the breakdown of that. It is across the institutions. It lists all eight institutions, and it shows for each one the member and the degree level, the number eligible for accreditation and the number accredited and the percent of accreditation.

Q. Table twenty-one is Government's Exhibit 501.

Now, Dr. Conrad, what overall conclusions did you reach regarding program equality in 1981?

A. Based on the indicators that I have – used at that time, I concluded that – that the programs in the traditionally [128] white institutions were of higher quality than in the traditionally black institutions.

I would want to emphasize that I would like to have – be able to use some additional indicators, but clearly they were unequal, and I think a particular point is the fact that for the five traditionally white institutions were doctoral granting institutions, while only one of the traditionally black institutions was a doctoral granting institution.

In the two remaining traditionally black institutions, they only offered a couple of master's programs, not all of which were even accredited, so that the evidence based upon the indicators that I have seem to be quite compelling that there was, simply put, inequality in the program

offerings across the two sets of institutions, with the traditionally white institutions having programs of higher quality.

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[130] Dr. Conrad, I would now like to direct your attention to the issue of program quality.

Would you identify the indicators that you utilized in 1987?

A. Yes. I used four curriculum indicators, the same four [131] that I had used in 1980. I—in addition, I used—I used four additional indicators, as follows.

A fifth indicator had to do with the library quality. Particularly, the number of book volumes in libraries, and that is a measure of resources.

So, I had four indicators of curriculum, the same four that I used in 1981. I had one indicator in 1987 in addition that related to resources.

I also used two additional indicators, could be called indicators six and seven, that are related to qualifications of faculty, faculty educational background.

One of those two indictors was the percent of faculty with their doctorate. The other indicator refers to the percent of faculty with their highest degree from a research university one, and, finally, my eighth
to do with students and student quality.

I used the ACT test score of entering freshman as an indicator of the student quality.

So, in short, I used eight indicators that were collapsed into four general areas. Those four areas being curriculum, resources, faculty and students. Each which can be conceived of as a dimension of program quality.

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[137] Q. Table ten, Exhibit 685, (j).

A. Table ten again indicates the number of eligible programs for professional accreditation in such fields as art, chemistry, business and so on, and the program is actually accredited.

It shows, for example, in the historically black institutions, sixty-nine programs eligible for accreditation in 1986. Although the date, I should emphasize, is from 1984, that being the most recent date available, such that these figures may be off modestly.

Sixty-nine total programs were eligible in 1984 in the traditionally black institutions. Forty-eight were accredited for a percentage of seventy.

The comparable figure in the traditionally black institutions overall is eighty-two percent. [138] Overall, the conclusion is that TWI's have higher accredited percentage of the accreditation. This extends not only to the grouped institutions, that is to say, traditionally black as compared with the traditionally white institutions, but also across all six comparative sets.

Q. On a point of clarification. Overall, the historically black institutions is seventy percent rather than eighty-two?

A. I am sorry, seventy in the traditionally black and eighty-two in the historically white or traditionally white.

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[153] Q. Okay. Dr. Conrad, could you just summarize briefly what happened regarding program inequality between the years 1981 and 1986?

A. Well, I think it generally was a very modest progress. The gap was in terms of professional accreditation status—was narrowed slightly.

In terms of the number of program offerings, there was—in numerical terms, the traditionally white institu-

tions deleted many more programs but the percentage decrease was about the same as in the traditionally black institutions, only slightly greater.

[154] In terms of the level of program offerings, there was very little change over this period. With the notable exception that M.U.W. dropped the doctorate.

Finally, as regards the range, there was a slight narrowing. So, basically, using these four indicators, what we see here is that there was an ever so modest narrowing of the gap in terms of program quality. I think roughly it stayed the same in my professional judgment.

I think the important fact is that, opinion, conclusion that I would state is that this basic structure of inequality that we found in 1981, and much earlier, going all the way back to 1954, has simply existed. It has not been increased particularly with this recent five-year period, but the structure of inequality, the institutions are not any closer together.

The traditionally white institutions continue to offer many more programs at higher levels. I suppose in interpreting what happened between 1981 and 1986, it is important to point out the possible influence of the mission statements of the Board of Trustees of Higher Learning, which is dated November the 19th of 1981.

That statement could be important because it circumscribes the scope of program offerings in the traditionally black institutions.

What it says, of course, is that proposed new programs [155] cannot be started that fall outside the role and scope. Two of the historically black institutions are classified as regional institutions and regional institutions are primarily baccalaureate level institutions, allowed to keep graduate programs only in a couple of areas. Education, for example, and further, Jackson State was classified as an urban

university, where the admission is less clear than is the case of the comprehensive universities, at which there are three, all traditionally white institutions.

So, it may well be that the—that the mission statement of the Board of Trustees, which delimited rather severely the missions of the traditionally black institutions, precluded in lots of meaningful ways the development and enhancement of the traditionally black institutions, though at the same time, as I said earlier, there were these incremental improvements, as in the number of programs accredited. A kind of modest narrowing of the gap between the traditionally white and the traditionally black institutions, but whatever the explanations that might be proffered, the fact remains that the structure of inequality, at least based on all of the data I looked at, and these indicators, the structure of inequality simply continued to exist in 1986 and did not differ appreciably from what was the case in 1981.

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[162] Q. Dr. Conrad, yesterday when we ended our discussion, we were talking about program quality, and you stated that there are eight indicators of program quality.

Could you state for the Court now the reasons why you chose the eight indicators?

A. I—yes. I chose those particular eight indicators based on the literature on program quality, which is quite considerable.

There is a large body of opinion and essay and conventional wisdom on program quality, but more immediately I also chose the indicators because of research that has been done in the past dozen years or so that has helped to identify or isolate factors or indicators of program quality.

In fact, I have done a good deal of research myself in that area trying to identify factors that are associated with programs that are taken to be of high quality so that is why I chose the particular eight indicators that I did.

It is founded in the literature and including the research on program quality in higher education.

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[186] MS. YOUNGER:

Q. Dr. Conrad, were programs added at TWI's between 1981 and 1986?

A. To the best of my knowldge, they were not.

Q. Did you look at the consequences of efforts to reduce program duplication and the number of unique unduplicated [187] programs in TBI's?

A. I did, yes.

Q. All right. How did you go about investigating that?

A. Well, I think that what is important in looking at duplication, and that includes unnecessary duplication, is not simply duplication per se and unnecessary duplication, it is what it says about uniqueness.

Of the both traditionally white and traditionally black institutions, uniqueness is the obverse of duplication.

So, it is important to me that I look at in—look in the context of vigorous—a lot had been happening in the program area between 1981 and 1986. A lot of programs were deleted. Some unnecesary programs were deleted between comparative sets of institutions that I have talked about, but I wanted to help interpret that or help make sense of that.

In other words, what does this tell us about the uniqueness of the traditionally white institutions and the traditionally black institutions?

It reduced duplication but what were the consequences of this reduction in duplication, so I went back to the—the

inventory for 1981 and 1986, and I—and I did some—essentially just adding up of programs, because I wanted to know what—how much uniqueness was there at these institutions and, particularly, at the historically black institutions. [188] I could have done it as easily for the historically white institutions, but they clearly seem to have a great many more programs and has unique programs that I did not do that.

So, I looked at the historically black and on table nineteen, I displayed the figures of—when I looked across those years in terms of uniqueness, what is it that is unique about these traditionally black institutions?

That seemed to be important and—

Q. That is Exhibit 685(s)?

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[189] MS. YOUNGER:

Q. Dr. Conrad, referring back to table nineteen, would you state how it was prepared and state your conclusions?

A. Again, what I did is really for each of the five [190] comparative sets, I thought this made the most sense in looking at the five comparative sets across the two years was to go through the inventories for each of those years and identify the unique—programs that were not offered in the comparativel traditional white institution and that were also nonessential, that were noncore programs.

Again, with the intent of trying simply to find out did the black institutions have a number of—a good number of unique nonessential, in this case, bachelor's programs, since they are basically baccalaureate level institutions with the exception of Jackson State, and when I went through and added up, the programs that you can see there in the case of Jackson State University in 1981, there were nine unique nonessential or noncore programs. Pro-

grams like a business program or a computer—or an education program or so on. The—

In 1986, there were seven. There was a change then of a minus two. As you see, the pattern is the same all—across all five comparative groups. What I think is relevant, and as I understand the issues at hand is that what the table really says, and I think it is—this table is as—is even more instructive than the duplication tables, maybe not combined but what it says is that in 1981, there were not very unique nonessential programs offered in the traditionally black institutions, while we know that there were a good many in the traditionally white institutions, the pharmacy [191] schools and the law schools and engineering schools and so on.

The historically black institutions, there simply weren't in 1981, and even fewer in 1986 when the inventory was generated.

Again, the context for this is that there were a lot of efforts in the state as we have seen to reduce unnecessary duplication and it did get reduced in some of these, the comparative sets with the cross five, but the consequences were not such that the traditionally black institutions increased their number of unique programs. Whereas those—that could have been a consequence of the vigorous activity in terms of program review and reduction efforts in the state.

Q. Can you identify the unique unduplicated programs?

A. Yes. I thought it was important to get a sense of what were these programs for whatever purposes are relevant here.

Q. Could you refer to table twenty?

A. Table twenty, I have identified—

Q. Which is Exhibit 685(t).

A. For 1986, I identified the unique unduplicated, nonessential baccalaureate programs in TBI's in the five comparative sets.

Just to give a sense of what these programs were, at Jackson State, Mississippi State, Jackson State offered secretarial studies, that was not offered at M.S.U., mass [192] communications was not. Mathematics education was not, the teacher education program, social work in baccalaureate degree, urban studies in industrial technology.

Another comparision might be Jackson State University, Southern Mississippi. The unique programs at J.S.U. were secretarial studies, mass communications, math ed and urban studies, baccalaureate degree.

So, again, that gives you a—I wanted to get a—some sense of the texture of the kind of programs that were offered at the traditionally black institutions.

Not only wanted to know if there were a good many unique programs, unique nonessential programs but some kind of a texture for what were the programs offered at the historically black institutions, and I think tables nineteen and twenty respond both to the quantitative dimension of how much uniqueness that a historically black institution provides in perspective about the consequences of the activity between 1981 and 1986, and also say something about the character of the—the texture of the kind of programs that are offered at the traditionally black institutions.

Q. Dr. Conrad, the programs that are identified in table twenty, Exhibit 685(t), are they considered high demand programs?

A. No. I think in all candor in looking through the list of them, it is—it would—it would be a severe overstatement [193] to call, I guess, any of these high demand pro-

grams at the present time. Though, in particular context, and I have not—in particular context, some of those programs may have been very much meeting the needs of particular localities, but generally when we talk about high demand fields of recent years, those are all in professional fields, as I think we all know.

Now, with two-thirds of the undergraduates majoring in professional fields in American higher education, those growing fields, of course, have been in areas like computer science and notably in business related fields. Education still has a large number of students, even though it has declined its relative market share in the last few years.

But, in general, to answer your question, certainly nationally these are not the kind of programs that draw students from afar to come to particular institutions in great numbers.

Again, I would qualify that by saying that I have not looked at the enrollment data in state. It may be that there are a large number of people that enroll in music education at Jackson State University, but I would not—I would not guess that. I would not make that guesstimate if I were called on to make it.

Q. Now, based upon your review of the academic programs in the state for the period 1986, what are your overall [194] conclusions?

A. I am sorry, could you repeat the question in terms of just duplication?

Q. Duplication, yes. What are your overall conclusions based upon your analysis from 1986?

A. Well, following from what I have said so far, and the rest was just repetition, I would say that overall there has been very—very modest gains in terms of reducing program duplication.

There has been some gains in program duplication, some modest reduction in the amount. Relatively little

gains in terms of unnecessary program duplication, which is, I think, really an important part of looking at the whole picture of duplication. These noncore programs where you look and find out if they are offered in comparative institutions, and you find out that they frequently are. Whether we are comparing grouped institutions or five comparative sets of institutions.

I think by way of conclusion that particularly noteworthy after having looked at all of this program activity in the State of Mississippi, a large number of programs suspended and consolidated and so on, you look at the consequences of that for the—we know what they are for the traditionally white institutions, but in terms of the traditionally black institutions, the consequences seem to me fairly straight forward, and they are, that there simply are not a good many [195] unique high demand programs that are offered in historically black institutions.

In fact, there are fewer in 1986 than there were in 1981. In other words, there is really less uniqueness about the traditionally black institutions in terms of their program offerings in 1986 than was the case in 1981. There is not much of a difference, a very modest decline. We are only talking—literally, a handful and a half of programs that are really unique in these traditionally black institutions in 1986.

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[245] Q. Under that you have Mississippi Valley State University, total programs of sixteen.

Could you please give me your opinion as to whether a university with a total program of sixteen, having documented the programs in Appendix C as to whether Valley State University could be classified as a university?

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THE WITNESS: Well, I don't think there is any rule of thumb, easy rule of thumb as regards the number of programs.

It seems to me that the important issue is—are key core programs offered, very essential kind of programs.

As I look through at Mississippi Valley State University, I would be concerned, for example, that there is no German [246] or Spanish or French, there is no physics, or chemistry, or economics or history or political science.

What that means is that you don't—you really don't have an inner structure, so you cannot even offer what is usually considered to be the core components.

At any institution that I have ever studied or been to, and I probably have been to five hundred and studied a few hundred more, if you are going to get a good solid education, regardless of what field you major in, it seems to me—and I cannot believe that anyone would disagree with this—that it would be nice to have some background in the social sciences, for example. They are not offered at Mississippi Valley.

I would be concerned about the ability of the institution to provide an essential—provide a high quality baccalaureate education.

Having said that, I would want to look much more carefully at the programs that are offered and the kind of faculty that are at Mississippi Valley State University.

It may be that they are faculty that are well equipped to reach the social sciences, but looking at the absence of programs in these areas, one would not necessarily predict that there were faculty at the institution who are trained to teach, say, in the social sciences.

So let me say by way of summary that I would have some very genuine concerns about Mississippi Valley's ability to [247] provide basic undergraduate education,

just by looking at not only the number but the kinds of programs that are offered. They just don't seem to be enough or the kind of disciplines there to provide a foundation for baccalaureate education.

Again, I would emphasize for the record that it is a matter that I want to look into much more. I am simply saying that I would come into such an inquiry with some very genuine concerns.

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[254] Q. You have never served as a state-wide administrator of a public system, have you?

A. No.

Q. Or on the governing coordinating board of any system?

A. I have not.

Q. And you have never served on the staff of any governing board, have you?

A. No, sir.

Q. You're not an expert in the area of higher education desegregation, are you, sir?

A. Absolutely not.

* * * * *

[256] Q. In the context of your opinions then, Dr. Conrad, isn't it true you have not investigated and you are not addressing the reasons for program distribution in Mississippi?

A. Oh, absolutely. As I have said late this morning, I simply, I think it's inappropriate for me to comment on motivations, intent and so on. I'm tendered here, I presume, because of my background in academic programs, not as a psychologist.

Q. You have not evaluated the need for any program, have you, sir?

A. I have not.

Q. And you have not evaluated the demand, the educational [257] demand for any program, have you, sir?

A. No, sir.

Q. And you have not evaluated the cost of any program, have you, sir?

A. No.

Q. And you have not evaluated any institution's ability to handle a program, have you, sir?

A. I have not.

* * * * *

Q. You're not expressing any judgment today, are you, sir, in the educational judgment as to whether any programs should have been awarded?

A. No, sir.

[258] Q. And you're certainly not here today to express any educational judgment as to whether any programs should have been terminated, are you?

A. Absolutely not.

Q. And you're not expressing today any educational judgment as to whether any program should have been consolidated?

A. No, sir.

Q. Nor are you here today to express any educational judgment as to whether any program should have been transferred?

A. That's correct.

Q. You have not investigated whether the elimination of any additional programs would decrease the level of in-state access to higher education for Mississippi citizens, have you, sir?

A. I have not.

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Q. That's my point, though, You're not looking at any particular institution per se, are you?

[259] A. Only in reference to other comparative institutions.

Q. Strictly on a comparative basis?

A. That's correct.

Q. And when you do this, you are comparing the three predominantly black institutions with the five predominantly white institutions on a group basis?

A. Yes, sir, I am.

Q. You compare Jackson State with the University of Mississippi?

A. I have, yes.

Q. And also Jackson State University with Mississippi State University?

A. I have.

Q. And Jackson State University with the University of Southern Mississippi?

A. I have.

Q. And Alcorn State University with the University of Southern Mississippi?

A. I have.

Q. And in doing this, you're comparing institutions with different missions, aren't you, Dr. Conrad?

A. I would say in some instances I'm comparing institutions with somewhat differing missions. Absolutely, yes.

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[260] Q. Are you aware of any classification system that groups Jackson State and the University of Mississippi and the University of Southern Mississippi and Mississippi State University?

A. No. I was going to say, if I might expand briefly?

Q. If you will, just answer my question, please.

A. No, I'm not.

* * * * *

[262] Q. Difference in institution means these institutions are doing different things, doesn't it, Dr. Conrad?

A. It implies different things. A range of program offerings i much more limited in the baccalaureate institution, it means by definition that the baccalaureate institution isn't offering a good deal of advanced doctoral training, it doesn't place as much emphasis on research, and so on, as would be the case at the University of Southern Mississippi, yes.

Q. You recognize, don't you, Dr. Conrad, within a state-wide system, especially when you consider limited resources, that it's extremely important that distinctions exist?

A. Yes, sir. I've spoken at length on that, as you recall from my deposition when we made references to the State of California.

Q. And you have recognized, have you not, that curricula should be differentially structured to meet the educational needs and objectives of the students within the state?

[263] A. Absolutely.

Q. Now, Dr. Conrad, particularly where respect to the number, level and range of programs, you would expect to find differences between institutions when you compare them across mission lines, wouldn't you?

A. In general I certainly would expect to see some differences, yes.

* * * * *

Q. Dr. Conrad, other than the predominant racial student body presence at the institutions in Mississippi, is

there any basis for your comparison of Mississippi State, Alcorn State and Mississippi Valley State and Jackson State with [264] the five remaining institutions?

A. None that I can think of.

Q. No educational basis at all, is there?

A. I never am quite sure what you mean by educational basis, but as I think I understand your intent, no. I mean, I might be comparing some of those institutions with some other kind of reasons across different institutional types and so on, if I was doing a study, but in terms of that particular configuration I can think of no reason why I would do it.

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[265] Q. Have you examined the issue of program equality on any basis other than what has been termed racial identifiability of institutions?

A. No.

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[266] Q. That's right. You're not in any way comparing that the degree of duplication is related in any way to the racial identity of the institution?

A. I'm certainly not suggesting any such thing. I'm merely showing that when I compared these sets of institutions that I found a very considerable amount of program duplication, including unnecessary program duplication. I am saying nothing at all about the reasoning or motivation for why something may have happened.

Q. With respect to your definition of duplication, Dr. Conrad, your definition is not based upon courses being offered in programs, is it?

A. It is not.

Q. Your definition is not based upon the demand for any program, is it?

A. It is certainly not.

Q. Your definition of duplication is not based upon the quality of any program, is it?

[267] A. It is not.

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Q. And your definition of duplication is not based upon the academic demands that are being placed upon students, is it?

A. It is not.

Q. And your definition of duplication is not based upon the number of students enrolled, is it?

A. It is not.

Q. And your definition of duplication is not based upon the kind or quality of students enrolled, is it?

A. It is not.

* * * * *

[268] With respect to the definition of duplication, Dr. Conrad, to make sure I understand what you have done, when you take the three predominantly black institutions and compare them with the five predominantly white, are you saying, sir, if any one of the black institutions and any one of the predominantly white institutions are offering the same numbered HEGIS discipline that duplication exists?

A. That's correct. As I stated yesterday.

Q. That would mean that if Mississippi Valley State University and the University of Southern Mississippi were both offering English, there would be duplication under your definition?

A. Yes. Absolutely.

Q. Or if Alcorn State University and the University of Mississippi were both offering accounting; that would be duplication under your definition?

A. Yes, it would.

Q. Or if Jackson State University and Mississippi University for Women were both offering chemistry, that would be duplication?

A. It would.

* * * * *

[269] Q. There is no duplication under your definition if all three of the predominantly black institutions are offering a discipline, but none of the predominantly white institutions are offering it?

A. That's correct.

Q. And the converse would be correct, if all five of the predominantly white institutions were offering a discipline that were not offered by the three predominantly black institutions, there would be duplication.

A. That's correct. In the context of the question posed

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[274] Q. With respect to your definition of unnecessary program duplication, I believe you stated the only acceptable program duplication would be in the historically defined basic arts and sciences. Is that correct?

A. That's the necessary duplication, yes.

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[275] Q. That means, sir, as I understand it, that business and commerce, accounting, business statistics, banking and finance, investment and securities, business management and administration, real estate, insurance and so on down the list, any of those programs in your judgment, if there were duplication, that would be unnecessary?

A. No, I—these are not core programs according to my definition.

Q. That's my point.

A. So any duplication would be unnecessary, that's correct.

Q. And if we looked over at the 0800 area, under education, [276] where you find secondary education and elementary education and so forth, those are not core programs, are they?

A. Absolutely.

Q. Any duplication there in your judgment

A. Would be unnecessary.

Q. You consider all duplication at the master's level to be unnecessary?

A. I do.

Q. Regardless of discipline?

A. That's correct.

Q. Looking at table four, Dr. Conrad, 685 D, as I understand what you're saying, for example, if we looked at the foreign languages, all eight institutions in Mississippi could offer Russian and that would not be unnecessary duplication?

A. That's correct.

Q. All eight institutions could offer astro-physics and that would not be unnecessary duplication?

A. That's correct.

Q. But no two schools in this state can offer accounting under your definition, can they, to avoid unnecessary duplication?

A. In the comparative sense, yeah. In the context of which we are all aware of that I'm talking about here, yes.

Q. No two institutions could offer banking and finance, could they?

[277] A. That's correct.

Q. And no two institutions could offer secondary education, for example?

A. That's correct.

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[281] Q. So you approve of both Mississippi State and Alcorn State offering agriculture, agronomy and some 50 other programs listed here on table five?

A. If you offer them. As you know, they don't offer many of these programs.

Q. You said you approve of that under your definition?

A. Yes.

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[289] Q. I'm trying to get a comparison here without regard to the three major doctoral granting institutions. If you compared Jackson State with Delta State on a program basis, Jackson State has 53 programs whereas Delta State has only 37?

A. I would say in general Jackson State has more program..

Q. Thank you.

A. At a higher level and so on.

Q. If we compared Jackson State with Mississippi University for Women, Jackson State has 73 programs whereas Mississippi University for Women has only 27 total?

A. Certainly at the baccalaureate level there's a glaring difference. I think, if I may say it more precisely, the

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Q. You said there was a glaring difference, I think, at the baccalaureate level between Jackson State—

A. Yeah.

Q. —and Mississippi University for Women?

A. Yeah.

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[291] Q. With respect to accreditation, Dr. Conrad, it's true, is it not, that there are two major standardized assessment [292] procedures for assessing program quality in the context of accreditation?

A. Yes, there are.

Q. One of those is regional accreditation, isn't there?

A. Yes, That's the one we discussed yesterday.

Q. Regional accreditation is done within this area of the country by the Southern ASsociation of Colleges and Schools?

A. Yes.

Q. At all Mississippi institutions, both white or black or regional?

A. To my knowledge they all have the imprimator of SACS, they are accredited at this time.

Q. What that means is they have met SACS' standard with respect to faculty. Isn't that correct?

A. It means that, among other things.

Q. And the other standards would be, facilities would be one?

A. That would be one.

Q. Resources would be one?

A. That's commonly one.

Q. Students would be one?

A. Yes.

Q. Libraries would be one?

A. Yes, sir. Yes, yes, yes.

* * * * *

[295] Q. Isn't it true, sir, that Jackson State University, at that institution, that 82 percent of their programs are accredited?

A. Oh, it is, and that's something that I noted in the narrative. I guess that's why, as an academic, I would like

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out. That's absolutely true. The figure is 82 percent whether you calculated it yourself or got it from my report. That is true, the figure is 82 percent and that percentage compares quite well.

[296] The University of Mississippi, now remembering that's one of the institutions I compared it to, is 91, Mississippi State is 83, which is only one percent higher, and in fact USM is a little lower, it's at 77 percent. So I do refer,

[297] Q. How many programs does Delta State have accredited outside the area of education?

A. I don't hve the raw data—I do have the raw data in the appendix, as you know. I could figure it out. I think very, very few.

* * * * *

[328] Q. I believe you indicated, did you not, Dr. Conrad, that in California they have a system where you have the University of California system, the California state universities and community colleges?

A. I did. I discussed it in my deposition and alluded to it earlier this afternoon.

Q. You indicated that students may be admitted into the University of California system if they rank in the top eight percent of their class?

A. I said approximately eight or nine percent.

* * * * *

Q. You indicated that students need to be in approximately the top one-third of their class to enter the state college system?

A. That's correct.

[329] Q. And I believe you stated that the University of California system required standardized test scores somewhere in the range of twelve hundred on the SAT?

A. I did. I stated that in my deposition. I also qualified that and said I was much more certain about the percentage than I was an SAT or ACT score. Generally, when you would convert students in the upper eight percent of their class you would get fairly high ACT scores.

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[340] **TESTIMONY OF HARVEY H. KAISER**

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. PETTENATI:

Q. Dr. Kaiser, would you state your name for the record?

A. Yes. It's Harvey H. Kaiser.

Q. What is your home address?

A. 304 Brookford Road, Syracuse, New York 13224.

Q. What is your business address?

A. Syracuse University, Syracuse, New York 13244.

Q. What is your occupation?

A. I'm a senior vice-president of Syracuse University.

Q. How long have you held that position?

A. Since 1985.

Q. What position did you hold before that one?

A. I was a vice-president appointed in 1972 at Syracuse University.

Q. What are your responsibilities as senior vice-president of Syracuse University?

A. I report directly to the chancellor of the university. I'm a member of the chancellor's cabinet, the policy-making body. My administrative responsibilities are for facilities administration and general administrative services, as well [341] as fund-raising assignments and institutional relations.

Q. Do you have any academic responsibilities?

A. I have an appointment as assistant professor as urban and regional planning. Although I'm not teaching now, I'm involved in the thesis and dissertation committees, architectural juries and seminars.

Q. Where did you go to college, when did you obtain your degree, and what degree did you attain?

A. I received a bachelor of architecture from Rensselaer Polytechnic Institute in 1959, a master of architecture from Syracuse University in 1965, and a PhD in social science from Syracuse University in 1974.

Q. Do you hold any professional licenses?

A. Yes. I'm a registered architect in New York state and I hold a National Council for Architectural Registration board certificate.

Q. Are you a member of any professional organizations?

A. Yes. The American Institute of Architects, the Association of American Universities, Association of Governing Boards, the Association of Physical Plant Administrators, National Association of College/University Business Officers, among others.

Q. Have you published any articles or books or monographs about the field of higher education and facilities?

A. Yes.

[342] Q. Could you name a few of those, please?

A. Just the most recent ones, a book called Crumbling Academe, published by the Association of Governing Boards, another book called Facilities Audit Workbook published by several higher education organizations. A book called Managing Facilities More Effectively, published by Joe Z. Bass. Those are the recent books.

Q. Thank you. Have any of your publications been cited or recognized by authorities in the field of higher education facilities?

A. Yes, they have.

Q. How long have you been involved in the field of higher education?

A. Since I started to go to college or as an administrator?

Q. As an administrator.

A. Since 1972 at Syracuse University, and then prior to that actively as a professional architect with my own practice from 1970 to 72, and then as a partner in a large firm in Syracuse, where about half of the work was higher education. I also was appointed to the faculty at Syracuse University in 1967 as a lecturer and then full time in 1979.

Q. During your appointment as a lecturer what courses did you teach?

A. I taught undergraduate architectural design, third year design studio, and then a fifth year design studio and an [343] urban design graduate studio, and then I also taught urban studies seminar for several years to both. It was an upper division, undergraduate and graduate.

Q. Are you a member of any board of trustees of higher education?

A. Yes, I'm a member of the Russell Sage College Board of Trustess, that's in Albany and Troy, New York.

Q. How long have you been a member?

A. It will be going into my eleventh year.

Q. Could you describe your responsibilities as a board member of Russell Sage College?

A. Okay. I sit on the executive committee. I also chair the faculty affairs committee, and I also sit on the facilities committee, trustee nominating committee, the presidential assessment committee and now just formed a presidential search committee.

Q. Are you currently involved in any other activities that relate to higher education?

A. Most recently, and this is just ended, I was appinted by the White House as a member of the Fisk University Board of Advisors. That lasted about a year and a half.

Q. What type of university is Fisk?

A. Fisk is a private traditionally black institution.

Q. And where is it located?

A. Nashville, Tennessee.

[344] Q. What were your responsibilities as a member of this task force?

A. Well, overall, the appintment was based on a set of guide-lines prepared by the Secretary of Education to attempt to—the best way I can characterize it to rescue Fisk, which was in serious fiscal situation, in fact, suspended its operation briefly, and a group of people from around the country were appointed to be members of a board of advisors which actually set aside the Board of Trustees and each member then assumed a specific task force chair and mine was in facilities.

Q. And what re the results of the task forces involvement in Fisk University?

A. Well, the very specific results were regular meetings and producing a report to guide the administrative direction, and then, within my task force, we looked at the overall capital budgeting and priorities and I formed a volunteer task force for looking at the condition of facilities, and another volunteer task force for historic preservation, and those recommendations were presented. There is a very capable aggressive president who appears has stabilized the university financially, and is in fact increasing the endowment. I can't say my work in the task force is solely responsible, but I think the expertise brought in helped with the stabilizing of the institution.

[345] Q. Have you ever served as a consultant to any state-wide system of higher education?

A. Yes, I have.

Q. What systems?

A. The most recently, the State of Arizona, Maryland Board of Colleges, earlier the New York, State University of New York twice, and then internationally the association of Israeli universities.

Q. Okay. What did your work within those systems involve?

A. Generally, the guidelines. In Arizona most recently, reviewing consultant's guidelines on capital budgeting and planning for a new organization of the allocating of state monies for facilities, also systematic way to select priorities, to evaluate the institutionally submitted plans, and then guidelines for selection of architects and construction managers. That was in Arizona.

In the State of Maryland, I provided guidelines in conducting audits of the physical conditions of facilities. State Universities of New York, the earliest assignment was in 1962, which was developing a basic master plan for the expansion of the state university of the New York system and later a follow-up to that several years later.

And then the association of Israeli universities, I was invited to evaluate their programs for capital budgeting, selection of priorities, the administrative organization for [346] managing facilities and generally guidance on the conditions I found at each of the seven universities.

Q. Do you currently serve on any committees at Syracuse University?

A. Yes. I'm a member of the University Senate, you're subject to appointment; currently I'm on the athletic policy committee; that's the only standing committee that I serve on, a couple of others appointed directly by the chancellor of the university.

Q. Have you ever presented any of your work at major higher education conferences?

A. Yes, I have.

Q. Could you name some of those conferences?

A. Well, they are sponsored by the association governing boards, National Association of College and Business Officers, Association of Physical Plant Administrators, American Council on Education, the Association of American Universities. The National Science Foundation co-sponsored a program, National Trust for Historic Preserves, sponsored another program, and there were several of those which I was the speaker, more than once.

Q. Have you ever conducted facility studies of statewide systems of higher education where issues of desegregation were involved?

A. Yes, I have.

Q. Okay. What systems were those?

[347] A. In addition to the Mississippi study, the staets of Alabama, Louisiana, and very limited study of two institutions in Ohio.

Q. When did you conduct those studies?

A. In Louisiana I began the study in 1979; in Alabama, I believe, I'm sorry, Mississippi started next, in 1980; I believe Alabama started in 1982 or 3.

Q. Who—

A. And, excuse me, Ohio was in 1984.

Q. Who hired you to conduct those studies?

A. The United States Department of Justice.

Q. Do you have any current responsibilities with respect to those cases?

A. Well, the current one we are engaged in, of course. The case in Louisiana went to, through depositon, and then a consent decree was signed, and I was requested by the Department of Justice to satisfy the appointment of a court supervisor, for the compliance with the consent decree.

Q. All right.

MS. PETTENATI: Your Honor, at this time I would like to offer United States 860(v) into evidence, Dr. Kaiser's resume.

THE COURT: Let it be received.

MS. PETTENATI: Now I would like to tender Dr. Kaiser as an expert in the field of higher education facilities.

[348] THE COURT: On facilities, any voir dire requested?

MR. RAY: Your Honor, if that's the extent of the tender, we don't need to voir dire him, but if they go beyond that, we want to reserve the right to voir dire the witness.

THE COURT: It's higher education facilities, period. Do you have any objection to that?

MR. RAY: No, Your Honor.

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Q. Dr. Kaiser, what importance do facilities have to higher education?

A. They are basic to an institution conducting its mission, although some organizations manage to conduct programs without them. Typically, they are clearly a basic instrument of a higher education institution built to accomplish its programs.

Q. What if any relationship is there between facilities, programs and enrollments at an institution?

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A. Facilities house academic programs and accommodate enrollments and therefore there's a very close interrelationship between them. The whole function of facilities administration or facilities in institutions is to bring [349] together the space to accommodate programs

and enrollments. The relationship is circular. Academic programs drive the need for facilities, enrollments drive the need for facilities, and then they continue around that circle, that availability of facilities allows you to accommodate the enrollments, of possibly expansion as well as to accommodate academic programs, the development of expansion or new programs. There's a very close relationship between academic enrollments and facilities.

Q. Have any studies been shown showing the relationship between facilities and the higher education institutions' ability to attract faculty and students?

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Q. Are you aware of any studies that have been done showing the relationship between facilities and an institution of higher education's ability to attract and maintain students and faculty?

A. Yes, there have been published opinions about that relationship. For example, that two-thirds of the students who visit a campus will indeed apply for admission. However, there has just been published a book by the Carnegie Foundation for the advancement of teaching within the last six months, [350] and they survey students—it was a rather extensive survey—and 62 percent of the students interviewed in the survey reported that the facilities were the most important factor in their interest in the institution, much more than—it was 50 percent for academic programs and much less so for faculty and peers and so on. There are also opinions on the rentention factor; they tend to be individual institutions who regard the quality of facilities and the availability of things, such as housing, as being very important to attract and retain students.

Q. Dr. Kaiser, you mentioned the Carnegie Foundation published that study. What is the Carnegie Foundation?

A. It's a foundation endowed originally by Andrew Carnegie at the turn of the century and they have spun off a whole group of different subagencies, and there really became a good deal of distinction in the past decade, when they looked at—well, higher education was in a financial crisis, where it was going and they have also spun off most recently the Foundation for the Advancement of Teaching to look at qualitly of teaching and academic programs.

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[353] Q. Did you visit each of the schools?

A. Yes, I did.

Q. When did you visit them?

A. I'm uncertain about the specific dates, but in 1980, I visited all eight campuses and again at the end of 1986 and in March of 87.

Q. How much time do you estimate that you spent at each campus?

A. Well, cumulatively during the two sequences, at least a day and upwards of three days.

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[356] Jackson State University was somewhat of a problem to me to reconcile the graduate research university role and the facilities and the equipment that I saw. It wasn't that heavily equipped for graduate research in the sciences or even in computing, as I recall. The campus itself is congested, there's quite a mixture of different architectural styles and age and design. It was a newly completed physical education building, I was quite impressed by in terms of its adequacy, that had just been completed. Student housing, knowing that [357] there had been expressed and data later showed me there was a strong need for housing, it was evident that that response had just been made, but that more would be necessary. I looked closely

at the reports about congestion and long-standing requests for additional space. Although there is open space and opportunities for buildings, certainly the campus would benefit by acquiring adjacent land in the surroundings of a mixture of deteriorated housing that don't really enhance the institution. Of course, Jackson State is identified as a traditional black institution.

The University of Southern Mississippi, in Hattiesburg, gives the impression of a graduate research institution. It's busy, it's vital, it's congested in the sense that city streets run through it, buildings are really quite densely sited, at least as compared to Ole Miss. High-rise towers for recent science buildings. There are attractive older buildings which either have been restored or I think at this moment are under restoration and a tract of new buildings. The general character, I going to repeat, about the vitality and the vigorous nature, it seemed like things were on edge, things were going on. In walking through the classroom buildings, the students, I got that sense of intense students on campus. As I recall there was a strip highway nearby, the access was reasonably good.

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[362] A. Just briefly the opinions I have about 1954 are derived directly form the Brewerton report of the IHL.

MS. PETTENATI: Your Honor, that's Government's Exhibit 29 that's he referring to.

THE WITNESS:

A. I would say the black institutions in 1954, that is collectively described as being unequal to the traditional white institutions, they were adequate for undergraduate education, and that's essentially the characterization in 1954. There are more detailed descriptions about each institution and again I accede to the notion that's 30 years ago and in a great period of transition, but at least it gives a benchmark for viewing.

[363] Coming to today, the character of the institutions, I would characterize Jackson State University as a resarch university, although it does not have, this is a conclusion, what I consider to be adequate facilities and equipment to support a graduate research university. I think all the other things I described about the character earlier apply. Mississippi Valley State back in 1954 was barely emerging, had only been founded a few years before that, and I think the first few buildings had just been built. It's now an undergraduate institution, I believe, it has only one master's program and the facilities are adequate to support an undergraduate institution.

Alcorn, again I think I'm repeating myself, but today it remains an undergraduate institution in terms of its facilities, and I think one would be hard-pressed to say that it could support the land grant activities as one would expect.

MR. GOODMAN: Your Honor, I didn't hear what he said.

THE COURT: The court reporter can read it back.

THE COURT REPORTER: Alcorn, again I think I'm repeating myself, but today it remains an undergraduate institution in terms of its facilities, and I think one would be hard-pressed to say that it could support the land grant activities as one would expect.

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[364] Q. Dr. Kaiser, what variables do you use to study the variables of resource allocation?

A. With respect to facilities, I took a look at the enrollments over the 30-year period, I looked at the amounts of campus space, for both gross square feet and assignable square feet, and I looked at the investment in plant.

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[366] Q. You also testified that you used investment in planning as a variable, could you define that, please?

A. Yes. Those are dollars expended for buildings, grounds, utilities and equipment.

Q. And why did you use that as a variable?

A. Well, it represents the state's allocation of resources. It to me would give an indication of the policies and priorities for maintaining a change in the character of the eight institutions. The data was also available in a consistent and uniform fashion.

Q. What conclusions did you reach in comparing these variables among the institutions of higher learning for the last 30 years?

A. Collectively or for each one?

Q. For each grouping. You can begin with the major research universities.

A. It may be a—if you could help me by restating that?

Q. Okay. What conclusions did you research in comparing these variables among the institutions of higher learning over the last 30 years?

[367] A. Well, I have extensive tables that break that down but collectively, in terms of the major comparisons, the three TBI and five TWI, the state expended considerable amounts of money. I think collectively the replacement value went from almost a quarter of a billion to almost a billion, and a significant amount of space was added to the campuses collectively. In my opinion, it did not alter the character of the traditional black institutions.

MR. RAY: Your Honor, may we have a continuing objection to the character of the institutions as he has defined it before?

THE COURT: You may.

THE WITNESS: Shall I continue?

MS. PETTENATI: Did you finish?

A. The comparison of the TBI's and Jackson State compared to Mississippi State uNiversity, Ole Miss and the University of Southern Mississippi was that again space was built at Jackson State and expenditures were made. I, in my opinion, I don't believe they were adequate to achieve the goals of becoming a research university. That the facilities can be characterized as undergraduate institution, much as it was when I initiated the starting point of the study 30 years ago in the—

MR. RAY: Your Honor, we object. There's no allegation there is a duty for the State to make Jackson State [368] a research one institution. It's therefore irrelevant.

THE COURT: Overruled.

THE WITNESS:

A. The other two remaining comparisons were in the Cleveland area and the land grants. In the Cleveland area, again, monies were spent, space was added, the facilities at both institutions support undergraduate education. I felt there was a—it was a distinct difference, since they had similar evolutions of programs, that the equipment and the sophistication of space, the support space at Delta State in my opinion created a difference. In fact, I thought they were not equal.

At the land grants, in the comparison there became one solely of the designation of land grant. At the beginning of the study period, the ratios were somewhere in terms of space and plant value about Alcorn was about one-fifth that of Mississippi State. Thirty years later they remained about one-fifth. The allocation of funds in addition to space were in about that ratio. So there I felt that I could not explain the fact that both were designated land grant, that there was the disproportion of land grant supporting

facilities, not only the kind, but the sophistication that Mississippi State compared to Alcorn, so I felt that there appeared to be lack of equality between the treating of the two land grant institutions.

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[388] Something to note about gross space to start with, the next table will be net assignable square feet.

Gross square feet is usually about fifty percent more than net assignable. A very, very subtle analysis can be made.

For example, if a campus of—has a very close ratio of net assignable to gross square feet, that doesn't mean that it has thinner walls.

What is means is that the plan has been more genorous.

Where there is more gross to net. That is the standard term, gross to net ratio.

If you were to find that the net amount of space was close to the gross amount of space, people were very efficient. They did not add very wide corridors or lounges or spaces that were sort of superfluous, but they were generous. They accomodated different kinds of things.

I elaborate on this almost as a preliminary to the next table. One other fact of analysis of this table is certainly one would have to understand inflation, double diget [389] inflation, because in the early years one would find an amount of space could be delivered at a relatively low cost.

I find numbers of fifteen to twenty dollars a square foot in Mississippi difficult for me to relate to the northeast, but collaborated from the standard building indexes.

That would mean if you had a million dollars and it cost you twenty dollars a square foot, you could build a fifty thousand square foot building in 1960.

A million dollars in 1985 and you had to spend a hundred dollars a square foot, you can only build a ten thousand square foot building.

So if the State's allocation of resources were frontend loaded, that is, money was spent in the early years extensively on a campus, it would get a lot of space for the dollars.

If it received the space at the end of the period, it would not get comparatively as much space as the campuses got in early years.

So, if the State provided two million square feet at Jackson—I am sorry, at Southern Mississippi and Ole Miss and Mississippi State, 1960, 1961, or '64, '65, compared to Jackson State at half a million square feet, a lot more space was built at those TWI's research universities.

On the other hand, Jackson State having such a large [390] amount delivered in the more recent years, the past ten years, would mean that it was receiving relatively less square feet for the early amount of—compared to the earlier amount of building at the TWI's

It is kind of a convoluted discussion. I hope it came through clearly.

Anyway, that is what I derived from the table.

Q. I would like to direct your attention now to table number seven, which is Government's Exhibit Number 836(f).

Please identify that chart and explain how you prepared it?

A. That is table seven, titled Campus Space, Net Assignable Square Feet.

You will notice that this now is only a fifteen year period compared to the previous table that was a twenty-five year period.

It looks from 1969, 1970 to 1984, 1985 with percentage increases for all eight campuses.

This was frustrating simply because the information was not available on net assignable square feet for any data before 1970 that I could locate.

So, with some apologies to the difference between the twenty-five year and the fifteen year period, this is where I show the interesting relationship between the amount of net square feet to gross square feet, and where the delivery [391] in space with respect to inflation occurs.

The analysis that I did from this showed that the amount of space at the traditionally white institutions.

What that would be—what that would suggest is that the buildings were planned much more efficiently, but one finds lack of amenities when it comes to the width of a corridor or an additional lounge or whether it comes to what is not included as useable space but certainly has benefits.

You can find it when you walk into a dormitory, you can find it when you walk into a student center or even a classroom building.

That is a generalization because of the five hundred buildings on the eight campuses, but looking at the net space as a ratio to the gross space, that is a fairly consistent indicator that space was built, but at the TBI's you would say not as generous or with as much ambiance as the traditionally white institutions.

Q. Did you reach any other conclusions based on your comparison of the subcategories in table seven?

A. Well, we find at—for example, the research university categories at Jackson State compared to the other three institutions, as I suggested, the increase at Jackson State would look higher than at the three research universities except for Mississippi State.

That is when you start to see it have a puzzling [392] relationship. If so much more gross square feet was added at the traditionally white universities, why is there more net at Jackson State, and then you start to look at the buildings, walk through them, see what was provided, and you find this kind of ambience or generosity or efficiency, as I described.

The same thing occurred in a sense at Mississippi Valley State and at Delta State.

Overall, Mississippi Valley State added more square feet in the twenty-five year period than Delta State, so it would show that the net would be higher. But not—the net would be higher at Mississippi Valley than Delta State, but not to the proportion that one would expect looking at how much more gross square feet there was at Mississippi Valley than Delta State.

Out of both of these tables, again, in terms of subcomparisons, one would have to understand that the amount of space has a different cost to it, based upon the building type and the sophistication.

That led me to take a look at the later—on at the plant investment, because those factors of gross to net ratio and the type of space where a laboratory now can cost a hundred dollars a square foot, but a classroom maybe sixty dollars a square foot, so that a major addition of space on a campus has to be looked at for the building type to

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[402] Now, if you then look finally at the columns on the left, five hundred, six hundred and seven hundred, special generating and support. If you look at Jackson compared to the other three, you sort of have to chase around the numbers.

Jackson State doesn't have nearly the amounts of those kinds of spaces as the three research. I think this has a lot to do with the abilities not only to attract and retain students, faculty, but it is a representation of the character of the institution.

If you look at the Cleveland area schools, Delta State and Mississippi Valley, here you would expect somewhat remoteness of the schools to need a lot of those kind of support facilities. Now, student unions and laundries and

so on. I was kind of surprised that Delta State had quite a bit more when you added up those three categories.

On the one hand, Mississippi Valley State had more classroom but less of the supported kinds of space. I think there might have been some inequities in that.

* * * * *

[410] Then, the bottom half of that chart pulls out the research universities on a net assignable basis, and there you find that up until the most recent year, Jackson State lagged behind consistently in comparison to the traditionally white universities.

We find—that puzzling comparison, Jackson State has [411] less gross square feet in the recent year compared to Southern Mississippi, but when it comes to the net, Jackson State does pretty well. That is the ratio is reversed you suspect them to be the running parallel if all of the buildings are the same and the gross ratio and they were designed in the same frame of reference, but this would suggest to me and I tend to have this confirmed on the campus visits that the spaces were different. They may have been the same thing, teaching, laboratories, offices, but a little small, a little less general none useable space at the traditionally black institutions compared to the traditionally white institutions.

* * * * *

[412] A. Yes. These are all I am taking advantage of, parading then all in front of me at the same time.

They all deal with monies spent on facilities, which include buildings, grounds, utilities and investment.

The purest term of plant investment is the precise number of dollars spent and accumulated on an audited or accounting statement basis, annually or bi-annually.

So, these six tables start off with table twelve, plant investment book value, table—

Q. Please define book value, Dr. Kaiser?

A. I am not an accountant, but my understanding of the term is this that – The book value represents the – An exact amount of the dollars expended to obtain a good or service in a specific time period.

The accounting statement has a time period added to it.

* * * * *

A. Just move aheard to the titles of the other tables. Table thirteen is plant investment, replacement value.

[413] A. That overcomes the disadvantage of looking at book value in a precise period of time, because you now are inflating and bringing constant dollars to current dollars.

In other words, you go back to an earlier period of time, develop a factor to multiply the effected inflation and each of these entries took the data from essentially – from the previous table and inflated it so that these are all now current dollars displayed in table thirteen.

I did that by taking the Stae Building Commission data and IHL data, what would have been book value IHL for several tables and used a replacement value as a multiplier.

For example, in 1926, 1927 – I am sorry, 1969, 1970, the replacement value is twenty-six dollars a square foot, jumped to thirty-five dollars a square foot the next period.

Then, the State Building Commission reports did have replacement values for the buildings.

I have to point out some problem with that, because I would – again with that, the replacement value of campus might differ from my calculated value.

In other words, I did not understand in some cases how the replacement value was calculated, but I took the data either from the interrogatory, if it was available. Where it was not, I calculated using a consistent fashion. That was table thirteen.

Table fourteen, I then went ahead and divided the FTE's[414] into book value for the eight institutions for a twenty year period.

On table fifteen, I divided the FTE's in the replacement value for a twenty-year period, and then on table sixteen I pulled out of the earlier tables just the research universities value per FTE book value and replacement value just for clarity of camparison.

Now, one thing to point out. The book values were available for a twenty year period to get FTE's. I could not get book value for the same-period. It somewhat bothered me—On, I am sorry. It was replaced.

Would you please scratch all of that.

There was a difference in the period that—I am sorry.

What I wanted to point out was that these tables are for a twenty-period where earlier I used twenty-five and thirty-year periods. That was because I could not find either consistent uniform data or at least data I would feel comfortable using, so I only used a twenty-year period in these tables.

Q. What conclusions did you reach based on the information in tables twelve through sisteen?

A. Well, it was first of all quite evident that the State had responded to the enrollment growth and the academic program requirements with a significant investment.

If you look at book value, the dollars added each year, this is important to break it down in five-year periods, [415] because you can at least benchmark what happened at the end of those five years.

It sort of collapses inflation and other factors. You look at the actual dollars spent. The period from 1969—1964, 1965 to 1969, 1970, there was a significant increase at each of the campuses, both TBI and TWI.

Actual dollar values, for example, increased, book value increased two hundred and fifty-nine million dollars in a twenty-year period.

What I considered to be more meaningful in the overall about the State's response to higher education was that added in a twenty-year period replacement value of almost seven hundred million dollars.

That is a—really an acknowledgment of the State's response. Then, it starts to break down differently, if you look at the subcomparison, the TWI's to the TBI's, and then by the group of institutions

If you look at table thirteen, replacement value, you will start to see some—some suggestion of what I talked about, a frontend loading of building a lot, when you get a lot more building for the dollars.

You will find that one could say in the last ten years that TBI's did have a lot of replacement value added.

On the other hand, if you look back on the earlier years, you find a lot more replacement value had been added at the [416] TWI's. That would suggest that early on in the growth of higher education, more building was done at the TWI's.

This would be true, I think, in each of the subcomparisons. They fell uniformly. You have literally got a lot more building.

Later on, we find—again, this is just an increase over twenty years. It does not address itself to where they were at the beginning back in 1953, 1954, just because I could not find the data consistently available to show increases, but I do have total replacement values and total additions to plant for this twenty-year period.

Again, the State responded and it responded, I think, to all campuses. However, it did not respond in a uniform manner at the early period when we got—when you got more construction for your dollars.

In more recent years, when there has been a significant expenditure made at the TBI's, it is buying less building than those dollars would have bought, ten, fifteen, twenty, twenty-five years ago, and it does not reflect the replacement values or book values prior to 1964, 1965.

I summarize that later on in a summary table.

Q. Okay.

A. Then, that is generally what the replacement value table shows. You can take a look at the—each of the detailed tables on a per FTE basis, but if you go all the way back to table sixteen, which is entitled Plant Investment, research [417] universities is one of the subcomparisons I made.

Look at replalcement value at—well—sorry.

Take a look at book value on table sixteen in this twenty-year period, just what happened in this twenty-year period. 1964, 1965, then, that year, when a dollar was worth four times what it is today, I think.

You bought thirty-two hundred dollars worth of construction per FTE at Jackson State. You bought about the same at Southern Mississippi. At Ole Miss, you bought almost six thousand dollars worth. Mississippi State was sixty-two hundred dollars. That—remember this is by FTE, so that trend moves across, and you start to see Jackson State.

Remember again the per FTE and how it divides into the actual dollars.

Indeed, by 1984, 1985, more—almost twice as much was being spent, two-thirds more at University of Southern Mississippi, but less by forty percent at Ole Miss and a half by Mississippi State.

Replacement value, you move across when a dollar was buying only—today dollars were buying a lot more then.

Jackson State was less than any of the TWI's. That moves across fairly consistently until you get to just last year, where it exceeded University of Southern Mississippi but is less than half of the other traditionally white universities, so from that I –

[418] Looking over a time span, one sees in all of these tables on plant investment, dollars actually expended. The state made a significant amount of investment.

Undeniably, it spent a good deal of money, not only at the traditionally white institutions but at the traditionally black institutions, but a large portion of those monies were spent in the early years where more construction could be obtained.

Secondly, where the funds were added in later years, one has to look more closely at the building types and the amount of space obtained.

When building expensive laboratories at Mississippi State or at University of Southern Mississippi, you don't get as much square footage, but you do get support for academic programs, whereas Jackson State's space in classrooms would cost much less per square foot, and you get more per square foot building, and it shows a different response to academic programs.

I think it shows some differences between the treatment of the institutions

Q. Dr. Kaiser, do you have any other conclusiosn based on your analysis of tables twelve through sixteen?

A. I don't think I drew attention specifically to the comparisons between the Cleveland area schools or the land grants, but I feel that the comments I have made generally apply, [419] and there are some specifics.

I can add, for example, between Delta State and Mississippi Valley State about the frontend loading of the building, that is, the earlier construction. The same thing is compared to Mississippi Valley State.

Again, the different kinds of space, space—space built to support graduate and research programs are different. They cost more than space built for undergraduate programs, so if you are building for graduate programs at Delta State, you are bulding more expensive space, getting less space per the dollar than you would at Mississippi Valley State.

* * * * *

[420] Q. Is there a relationship between plant investment and equipment and a campus' ability to attract and retain students and faculties?

A. In my opinion, definitely yes.

Q. Would you elaborate?

A. Well, without fearing some repetition, the kinds of equipment to the visitor, to the prospective student, prospective faculty member, an identification of the kinds of programs.

For example, this might help some. If one goes to Mississippi Valley State, that is clearly an undergraduate institution. It is clear that it has assumed a role in industrial arts training.

If you then shift quickly to Delta State, you don't see the sophistication of the equipment, laboratory equipment, computing equipment, so that the attraction, rentention discussion begins to raise a question of what you came to look for and what you find.

So, the equipment will show clearly the nature of the institution, and it could provide what you are looking for.

If you go to Jackson State and look at a laboratory, even as a social scientist, computing equipment, compared to the traditional white institutions you would notice a [421] substantial difference, so the equipment enables an institution to support its academic programs, and you respond as you would as a prospective student or faculty member.

Q. I would like to direct your attention to tables seventeen and eighteen, Government's Exhibit 836(q) and (r).

Please identify those tables and explain how you prepared them?

A. Table seventeen is titled Plant Investment, Equipment per FTE.

It is important to note the period, 1964, 1965 to 1979, 1980, only fifteen years.

Table eighteen is Plant Investment, Equipment per FTE for research universities. That is pulled out of the previous tabel just to display the research universities.

Q. What conclusions did you reach based on the information in those tables?

A. The conclusions I reached by inspection are on the larger scale of comparing TBI's to TWI's and so on.

Again, the State spent, as reported in the annual reports—by the way, in terms of preparing this, I was flustered not being able to have available reports when I was preparing this past 1980, so with some apologies it only covers that central fifteen-year period. I wish more information was available, but I wanted to examine it, so I used what I could find.

[422] It shows the State spent an increase over the twenty—over the fifteen-year period of seventy-one million dollars.

It increased. The equipment at the eight institutions went up to nine million. It jumps significantly from year to year.

If you will look at the comparisons of now the TBI's to the TWI's, you also look at the notion of frontend loading and backend loading, and when it occurred and where it occurred.

You see that the TBI's in aggregate of eight point four million compared to sixty-three million. That is sort of

disproportionate with the replacement value of the three TBI's to the five TWI's.

It suggests that the—there was less equipment provided, the buildings are less sophisticated, the programs certainly would not be at the graduate level that they are at the TWI's.

In the individual cases, if you look at Alcorn—I am sorry if you look at Jackson State—

I would like to pull this out in the later table, so we will jsut set it aside there. We will set aside table eighteen for the moment—rather look at table eighteen.

You can see Jackson State increased two point seven million dollars in its equipment in the fifteen-year period—that central fiften-year period. That is a lot less than what occurred at the University of Southern Mississippi, which was over sixteen million. Ole Miss was at sixteen million, [423] and Mississippi State at twenty-three million.

We will look at per FTE basis, early on, 1964, 1965, Jackson State received three hundred and ninety-five dollars per FTE, twenty percent less than Southern Mississippi, and not even half of Ole Miss or Mississippi State.

Those ratios continue to divulge, coming out at least in 1979 and 1980. There you find that the amount in that—at that point in time per FTE—again, that was this benchmark year that Dover used. It comes pretty close to peak for all of the institutions.

There was four times the amount of equipment expenditures at the traditional white research universities compared to Jackson State.

So from that, I draw the conclusion that there really has not been very much of a response to enable the conduct of graduate programs or enhance the ability to expand them,

and even at the undergraduate level, I would question the competent complexity of the programs and the comparability, then, of the four institutions based upon the State's response in allocating resources for equipment.

For the Cleveland area schools, Mississippi Valley and Delta State, you see a significant difference in the equipment. I use that illustration to introduce the tables.

At Mississippi Valley State compared to Delta State on a per FTE basis, even as recently as 1979, 1980, when the [424] enrollments were fairly consistent, we find more than twice as much expended on equipment, and that was verified on visits and tours through the campus buildings.

At Alcorn and Mississippi State University, the two land grants, one looks at the starting year for Alcorn of nine hundred thousand dollars in equipment and Mississippi State has six million dollars of equipment.

About 1979, 1980, Alcorn has four million dollars in equipment and Mississippi State has six million dollars of equipment.

The increase at Alcorn for that fifteen year period was three and a half compared to Mississippi State's twenty-three million dollars of equipment.

So, that one would regard Alcorn as an undergraduate institution, based upon that, with limited graduate opportunities, and I question its ability to support the land grant function compared to Mississippi State. It certainly was well equipped to handle graduate and land grant functions.

Q. In your opinion, Dr. Kaiser, did the plant investment in equipment at the three traditionally black institutions effect their ability to attract and retain students and faculty?

A. My answer to that would be yes, because if one were viewing or reviewing a graduate university, particularly, or even undergraduate, you would consider it.

[425] I said this earlier. The equipment and whether it was able to provide the materials that you needed to conduct your undergraduate or graduate programs.

* * * * *

[429] Q. What kind of spaces might that indicate that were built at Delta State?

A. Oh, from my inspection, I could see the—well, a couple of things. One, at Valley State, the buildings are new and, therefore, some expensive renovations and modernizations were not done—were not required as they were at Delta, so you [430] did see some of those kinds of money spent.

Secondly, you really did see more sophisticated space, higher quality construction space at Delta State than at Mississippi Valley State.

That is my opinion after walking through the buildings. I did not look meticulously at work drawings; I did not see contractors' bills, but the opinion of materials that I did see and the methods of construction was that Delta State had better quality of construction than Mississippi Valley did. That is borne out somewhat by the repairs and renovations request that are now in the pipeline.

"Q. I would like to direct your attention now to Appendix A of your report, which is Government's Exhibit Number 836(t).

Could you please identify that appendix and explain how you compared it?

A. Yes. Appendix A is titled, Summary—Eight Campuses 1953/54 to 1984/85. It does place across the top the eight campuses and eight campus totals, and then vertically it shows each five-year increment from 1953, 1954 with some or all of the information on fulltime equivalents, gross square feet, net assignable square feet, investment in book value and investment in replacement value.

This was developed from the Defendant-provided material, primarily State Building Commission and the IHL bi-annual reports. This is the – this is the master key of – with [431] the help of the loaded spread sheet, you can do one big supper table, and from this I pulled all of the other tables, so this brings together in a single display all of the material that has essentially been shown in all of the earlier tables except for equipment.

Q. What conclusions did you reach based on your analysis of this table?

A. Over a thirty-year period, the State of Mississippi allocated resources for higher education. It responded to the enrollment in growth, it provided money to build buildings, but in my opinion, the needs that existed at the beginning of that period required a level of compensation which has represented by these thirty years of what I would have to say would be generally equitable treatment was not adequate by the State with respect to facilities to change the character of the eight campuses as they existed thirty years ago.

MR. RAY: Objection, Your Honor. It is irrelevant whether the character was changed at the institutions.

THE COURT: Overruled.

MS. PETTENATI:

Q. What conclusions did you reach with specific reference to the traditionally black institutions?

A. That the traditionally black institutions increased significantly in enrollment. There was a significant investment by the State, but that the – in the subcomparisons at Jackson [432] State, we now find thirty years later facilities and equipment adequate for graduate universities with the ability to support very limited graduate offerings.

Q. Excuse me, Dr. Kaiser, I believe you said facilities adequate for a graduate institution – is that –

A. Would you read that back?

THE COURT: Read that back, please.

COURT REPORTER: "That the traditionally black institutions increased significantly in enrollment. There was a significant investment by the State, but that the—in the subcomparisons at Jackson State, we now find thirty years later facilities and equipment adequate for graduate universities with the ability to support very limited graduate offerings."

THE WITNESS: That should be adequate.

MS. PETTENATI:

Q. Okay. Please continue.

A. Okay. Furthermore, at—at Jackson State in respect to the large investment made, the very limited land holdings inhabited the opportunities to expand academic programs and support graduate offerings.

The—finally, the limitations of housing at Jackson State, I believe, have inhibiting influence on the ability to attract students, other-race students, particularly, and develop and expand the graduate programs.

[433] There was no—certainly, it inhibits Jackson State from competing effectively with the three traditionally white universities to be equipped the way it is, have the kinds of spaces that it does and the limitations to housing.

Just to continue with the other comparisons and conclusion.

At Mississippi Valley State and Delta State in the Cleveland area, I found that with the recent divulgence in the enrollment, now fifty percent greater enrollment at Delta State than Valley State, there is a surplus of space at Mississippi Valley State.

On the other hand, its ability to support other than a very limited undergraduate program is very clear. It was neither equipped nor the space was built to effectively compete with Delta State for either undergraduate or the limited graduate offerings in the program that Delta State can now effectively conduct.

Finally, at Alcorn and Mississippi State, we find two institutions designated to be land grant, but that as it was thirty years ago, Alcorn remains an undergraduate institution.

There have been limited opportunities to compete for land grant oriented programs, faculty or students, because of the—facilities and investments made at Mississippi State University in the past thirty years.

In my opinion, Alcorn has not reached parity in programs and types of facilities that Mississippi State University has.

[438] * * * * *

Q. Dr. Kaiser, did you reach any other conclusions based on your study of the allocation for facilities at the institutions for higher learning over the last thirty years in Mississippi?

A. I would be excessively repetitive if I restated what I did in its entirety, but, again, it is clearly that the State spent money, buildings were built, space was added, but that, in my opinion, it was not adequate to change the character of the traditionally black institutions and that [439] compensation necessary was not made available with respect to facilities by the State.

[455] * * * * *

Q. In fact, it's pretty obvious to you, isn't it, that looking at the combined percentages, the predominantly black institutions had substantially a higher percent increase in gross space added, didn't they?

A. Yes, they did.

Q. Because if you look at the white institutions in that period of time, the increase was less than double, less than a hundred percent. In fact, about sixty percent. But if you look at the predominantly black institutions, they increased over a hundred percent in gross square feet, didn't they?

A. Yes, sir.

Q. And then let's look at the next period. Again, you had an increase at the predominantly black institutions of around [456] fifty percent, didn't you, when you combine them?

A. Uh-huh.

Q. So from 65 to 70, with a fifty percent increase in the predominantly black institutions of gross square feet, you had a much smaller increase at the predominantly white institutions, didn't you?

A. Yes.

Q. About fifteen percent versus forty-six at the black institutions. Does that look pretty accurate to you?

A. Yes.

Q. And then the next five-year period, again, about a one-fourth increase. Twenty-eight to thirty percent at the predominantly black institutions.

A. Uh-huh.

Q. Do you doubt that figure?

A. No, I won't argue.

Q. And at the predominantly white institutions for the 70 to 75 period, a 7.4 percent increase in space compared to that 28 percent. Is that right?

A. Uh-huh. Yes.

* * * * *

[457] Q. And finally for your last five-year period, the predominantly black institutions increased 7.4 percent and the predonimantly white institutions increased 2.8 percent in space. Does that figure look about right to you?

A. Uh-huh.

Q. So in each one of these five-year periods of time you've looked at, if you compare a percent increase, which is a method that you used looking at the institutions themselves—

A. Uh-huh.

Q. —in all but one of those periods of time the black institutions had a higher percent increase than the white institutions, isn't that correct?

A. Yes.

Q. And then if you look, Dr. Kaiser, at the cumulative effect over the entire period of time, which you have said is the way you need to do this kind of study to make up for rapid fluctuations, I believe, isn't it true Alcorn State University, looking from 60-61 with 244, 991, had an increase of almost a million square feet, an increase of about four times, wasn't it? A 404 percent increase in space at Alcorn?

[458] A. Uh-huh.

Q. And if you go right down the list, Jackson State was over 400 percent increase, wasn't it?

A. Yes.

Q. And Mississippi Valley State was over 300 percent increase?

A. Yes.

Q. And if you look at the totals of the black institutions and the space increase using your figures from 1960-61 to 84-85, the black institutions, cumulatively, had a 381 percent increase in space. Almost 400 percent compared to the white institutions with about 150 percent?

A. Uh-huh.

Q. So you had more than twice the percent increase with the predoniminantly black institutions over the period fo time you looked at. Is that true?

A. Uh-huh.

Q. And it's also true that the highest percent at any of the predominantly white institutions was less than 200 percent, isn't that right?

A. Uh-huh.

Q. So you have the high of 200 percent at the white insititutions versus the low of 328 percent at the predoniminantly black institutions?

A. [Nods yes.]

* * * * *

[459] Q. Dr. Kaiser, you stated that Jackson State doubled, and then had another fifty percent increase in that time, didn't you?

A. Yes, I did.

Q. And you also stated that the predominantly black institutions got about three-eighths of the gross square feet over the period of time you looked at. Isn't that right?

A. Yes.

Q. Now they didn't have three-eighths of FTE enrollment from looking at your enrollment table, did they?

A. No.

Q. Had less than that, didn't they?

A. That's correct.

Q. So, in fact, they not only got a proportionate share from an institution to institituion basis, they had more than a proportionate share of their gross square feet added when [460] you look at FTE, didn't they?

A. On that basis, yes.

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[461] Q. So from Table 6 and 7, Dr. Kaiser, the ones—well, from 7 we just looked at, and from 6-2, you can really ascertain a pattern for twenty-five years the predominantly black institutions have consistently had a higher percent increase in space by your two indicators, gross and net, than the white institutions. Isn't that right.

A. Yes, that's right.

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[472] Q. There's not a pattern based only on the race of the institution in this analysis, is there, Dr. Kaiser? You got one at, one below, and one above. Isn't that right?

A. Well—

Q. Is it wrong?

A. It's interesting when you say a pattern, because that's when one begins to apply a level of analysis. It's the same question about looking at two prices on automobiles. Are you getting the same kind of automobile or are the prices appropriate? I would then peel off another layer on these offerings and say, well, among the universities, Jackson State is significantly below the other three universities. Alcorn is quite a bit lower than Mississippi State. Mississippi Valley is higher than Delta, but the trace—it's the same kind of anomaly that occurs when you take averages and find that twenty things happen statistically. So indeed you're right. The chart is what I'd call color blind. However, when you do apply some level of analysis to it and look for patterns that you've done in all the wide array and point out what the meaningful things that I see in them are.

* * * * *

[482] Q. Let's look at 836(k), your Table 11, Dr. Kaiser. Now this is one of your tables where you decided to group four of the institutions and omit four others. Is that correct?

A. Yes. These are what I define as research universities [483] grouped together.

Q. And on this table you brought forward data that you had and came up with net assignable square feet per FTE student. Is that correct?

* * * * *

Q. And you only looked at Jackson State, Mississippi State, University of Southern Mississippi and University of Mississippi.

A. Yes.

Q. And throughout the course of your analysis before, a comparison of those four institutions had always put Jackson State University at the bottom of this ranking. Isn't that correct?

A. Yes, it is.

Q. Until you get to 1984-85.

A. Yes.

Q. And it's not at the bottom anymore, is it?

A. No, it's not?

Q. Now the University of Southern Mississippi is at the bottom of this ranking, isn't it?

A. Yes, it is.

* * * * *

[491] Q. Let me hand you a copy. This has been marked as Board 344. That was presented to the Department of Justice as an exhibit, Dr. Kaiser. Have you not seen that document?

A. Yes, I have seen it and I really was trying to find out the source and the division of dollars, the various federal/state and local funds that could have gone into it; and I was unsuccessful in being able to get the back-up for that, the fundings streams to explain it, so while I don't dispute it, it's also because I can't.

* * * * *

[493] Q. Well, in fact, Dr. Kaiser, let's look at the most recent period we know about, since 1981.

A. Yes.

Q. The period we talked about in your deposition. Since 1981, all addition to plant has been proportionately distributed with respect to the predominant race of the institutions, hasn't it?

A. Are you quoting me?

Q. Yes, sir, I am.

A. I think it's consistent. Yes, without reading it. And I'm not sure about the legal aspect of a deposition being quoted, but I think I have said consistently that there has been equitable treatment in recent years.

Q. Yes, sir. And furthermore, broadly speaking, it's clear, isn't it, that facility resources in the past thirty years have been equitably allocated from the viewpoint of racial characteristics of the institution? Again, quoting you.

* * * * *

[494] THE WITNESS: Could you read that back, please?

THE COURT: Do you want to restate your question? Restate your question.

* * * * *

Q. Yes, sir. Let me just ask you if you agree or disagree with this statement. Broadly speaking, it's clear that facility resources in the past thirty years in Mississippi have been allocated equitably from the viewpoint of racial characteristics in the institution.

A. Yes.

* * * * *

[496] Q. Are you saying that a student's race determiens what makes an institution attractive to them?

A. Yes.

* * * * *

[498] Q. How does the greater percent increase in gross square feet and net assignable square feet at the traditionally black [499] institutions form 1961 to 1980 affect your conclusion that the space added to the traditionally black schools have not changed their character?

* * * * *

A. The changes that occurred in those fifteen-year or twenty-five year periods did not change the character of the institutions, as they occurred at the beginning of this period in 1954 and as they are found today, despite the substantial investment of construction. And as the defense attorney presented, I don't deny that there were those kinds of investments, those kind of spaces were added, but they did not compensate for the position at the beginning of the period nor do they change the character over the thirty-year period.

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TESTIMONY OF DR. LARRY LESLIE

[532] A. The measures that I used compared the revenues and expenditures per student in the predominantly black institutions versus the predominantly white institutions.

Each of those revenue—each of those two categories, revenues and expenditures, were further broken down into a number of revenue and expenditure categories respectfully.

So, in sum, I was looking at the revenue and expenditures per student, taking into account certain contextual or environmental factors that I think are important to examining the equity question.

Q. Dr. Leslie, would you identify, please, and define those contextual or environmental considerations?

A. There were three in number.

One is economy scale, which relates to the efficiency one gains as the size of an institution grows.

The second is enrollment trend, and enrollment trend simply has to do with whether enrollments are generally increasing or declining.

The third is what I refer to as the historical record of financing, and by that I mean to say that if one is looking at the equity question in any given year, one needs to be aware of the—the cumulative equities or inequities that

have occurred over a period of years in order to judge the equity at a given point in time.

Q. Have you completed your answer, Dr. Leslie?

[533] A. You were asking me to define and – could you read back the second –

Q. I asked you to identify and define the environmental and contextual matters that you took into consideration.

You indicated that there were three. As far as my count, you have only described two.

A. They were the economy scale, enrollment trend and historical funding patterns.

Q. What do you mean by "historical funding patterns"?

A. Well, by historical funding patterns, I mean that an institution at any point in time compared to another institution will be funded equitably in consideration of the historical record and whether or not that institution has been funded equitably. That is to say that equity is not a matter of simply the revenues and expenditures per student in a given year, but is represented by the total accumulsation of the inequities or equities that may exist over time.

If I may give an example to clarify. If we go, for example, to 1960, which was the basic year in which my analysis began, one finds that when you aggregate all of the financial data for the predominantly white institutions, aggregate the financial data for the predominantly black [534] institutions, the white institutions had available in terms of total education in general revenues about twice as much as did the predominantly black institutions.

That means that in 1960, that institution had considerably more resources to hire faculty, to compete in academic labor markets for better faculty, to establish curriculum, including graduate level programs –

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THE WITNESS: My point is that finances are the vehicle by which we are able to hire faculty, to begin programs, to improve the quality of the programs, and it is these kinds of matters, quality with faculty, quality with curriculum, that give an institution its visibility, its prestige, its status.

It is the characteristics of the institutions that derive from the finances afforded to it that make the institutions attractive to students, to faculty, who are in the academic labor market.

I began with 1960. My point here is that many of those [535] same faculty would be in the institution today, some would have left, some would have retired.

As we go on in time, that institution is building a reputation, it is building its status and so forth.

College and universities are extremely difficult organizations to turn around, to change, and it is the accumulation of relative financial condition over time that causes an institution to be attractive, to attract good students, attract good faculty.

So, my point is that one must look at this track record over time and not at any single year.

* * * * *

[537] Q. In comparing institutions, what approach is commonly used in the field of higher education in finance to select the appropriate institutions for comparison?

A. Most commonly in comparing revenues and expenditures of [538] institutions, the convention is to group the institutions by: institutional mission and compare institutions of like mission. That would be a traditional kind of costing study.

Q. Did you follow that approach in this analysis?

A. No, I did not.

Q. Why did you not follow that approach?

A. This work I would characterize or define as primarily an examination of the question of equity, and the question of cost—cost becomes the vehicle for looking at the question of equity.

The—in my opinion, if one were to only categorize and only examine institutions categorized in the same classification on the basis of mission, one would have immediately several serious problems.

For example, the first thing one would do is to eliminate about eight percent of the students in the State, because about eighty percent of the students in the State are enrolled in either predominantly white or black institutions that do not have any counterpart in the State.

Probably a more important reason for forming the analysis that I have used is that if one is to compare only institutions of like mission, this is tantamount to saying that since the State of Mississippi decided to allocate a disproportionate amount of its resources to one group of institutions, enabling that institution to hire the faculty, [539] establish the programs, including the graduate level programs to attract the students, now because the State has done that, it is unfair somehow to compare those institutions to institutions that weren't given those resources.

MR. STEPHENSON: If the Court please, he has used the word disproportionate. That is a conclusion and speculation on the witness' part, without specification or educational basis.

In fact, he is also arguing a case as a lawyer, Your Honor, and he has gone beyond his area of expertise as one tendered in the area of higher education finance.

It is not his job to determine in the context of this case, under grounds of legal standing, how comparisons should be made or what they should be.

MR. MARSHALL: Do you wish me to—

THE COURT: Well, of course, the Court is not accepting this testimony as nay kind of a legal argument, but he will be allowed to give – and I understand that is what he is doing now – is giving the reasons for him making his comparisons across mission lines.

Of course, what weight to be given that is a matter for the Court to determine. The objection will be overruled.

* * * * *

[543] Q. In general, what do the results of your analysis with respect of faculty salaries, faculty rank and tenure indicate?

A. My results in general are that the faculty in the predominantly white institutions, vis-a-vis, the predominantly black institutions, are on an average paid more, they are more likely to hold higher academic ranks, they are more likely to be tenured, and they are more likely to hold the PhD or the highest degree in their field.

Q Do your results – the results of your analysis show any impact on students or per student expenditure of the faculty findings?

A. Would you restate the question please.

Q. I asked if there is an impact by the faculty – your findings on faculty on per student expenditure?

A. I understand now. The importance of the faculty, of course, is that it is primarily the quality of the faculty that are employed that impacts upon the kind of students that are attracted to the institution.

If one pays lower salaries, one is going to be at – be able to attract a lower quality faculty. At higher salaries, they will attract higher quality faculty, and, in turn, the higher quality faculty you can manage, you expect [544] there to be a higher quality student, and more probably more students.

[546] What I have tried to give is a broad picture of the finances that impact directly and indirectly on students.

Certainly, I put the State effort as represented in that—the State and local appropriations category up high on the list, because it is clearly one of the most important ones in measuring direct State effort, but there are many categories looked at.

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[548] The second one was the student health services. We put all student health services into the category of student services on the expenditure side for consistency purposes, and then finally the Pell grants, we also allocated them in a consistent way.

I might say that up through 1982, the Pell grants, under CUBA were to be classified in a category called ancillary—no, excuse me, agency funds.

Now, agency funds are not part of the current operating budget. They are not part of the analysis that we performed. That is, as I say, up through 1982. In cases we had to take the Pell grant funds out of these. These are the basic education opportunity grants, and we put them into the agency funds, if the institution had incorrectly put those funds into their current funds.

In 1982, CUBA changed the rule. CUBA said at that point, put the Pell grants into the current operating budget. Again, for consistency purposes.

Primarily, we continued to put the Pell grants into the—take them out of the current operating budget and put them into the agency funds. There are a couple of other reasons why we did that, but consistency was none of the more important reasons for doing that.

* * * * *

[552] Q. Again, with respect to total education in general income and your comparison of TBI's, traditionally black institutions, and TWI's, traditionally white

institutions, in the aggregate?

A. I seem to be missing chart 2(a). Here it is.

I would like to refer to chart 2, which is identified as Government Exhibit – United States Exhibit 694 (c), and chart 2(a), which is referred to as U.S. 694 (j), and finally to tables 2 (a) through 2 (n), Government's Exhibit – United States 693 (d).

I would like to break out a few reference points in referring to these charts.

In 1960, the total education in general income averaged eleven hundred -- excuse me, thirteen hundred sixty-eight dollars per student at the predominantly white institutions, and six hundred ninety-nine dollars at the predominantly [553] black institutions, which is a ratio of one point nine six one two one or about ninety-six percent more per student at the predominantly white than at the predominantly black institutions.

In 1980, which was the first year of my original study, upon which I was deposed in 1981, in 1980 the gap had increased to eleven hundred ninety-three dollars per student, that is, fifty-five hundred forty-seven dollars versus forty-three hundred fifty-four dollars, but the ratio had struck to the one point seven two one or twenty-seven percent difference.

By 1986, the dollar gap had increased to two thousand, seven hundred and sixty-three dollars per student, and this now is [exclusive of the Pell grants.]

The more notable change, however, was that the percentage gap had grown again. The total revenues being about forty-five percent greater at the predominantly white institutions than the predominantly black institutions, which compares to the twenty-seven percent figure of the six years earlier.

* * * * *

[577] Dr. Leslie, did you analyze the financial patterns with respect to faculty salaries, faculty rank, tenure?

A. Yes, I did.

Q. What were your findings relative to those categories?

[578] A. The tables I will be referring to here are 694—I believe that is (v)—

It is labeled table 5-1, table 5-1 (a) and table 5-2 and 5-2 (a).

Table 5-1 shows that the overall average faculty salaries, that is, the average salary by rank weighted by the number of persons at each rank, at the three traditional white category one institutions were the highest of the eight universities in the State.

Jackson State, the overall average was next, and that the two traditionally black category three universities were the lowest.

This is based upon 1979 and 1980 data.

So, on the whole in that year, faculty at the traditionally black institutions were paid less.

Specifically, in 1979/80, Mississippi State University faculty was the highest paid at an average of twenty-one thousand, one hundred and fifty-three dollars, which was about thirty-six percent more than was earned by Mississippi Valley faculty, which were the lowest paid t an average of fifteen thousand, five hundred and forty-six dollars.

The simple average, that is, the unweighted average of the five traditionally white universities was about nineteen thousand, four hundred dollars compared to about sixteen thousand, five hundred dollars at the three predominantly [579] black universities, and that is a difference of about seventeen percent.

The most recent data that I have for 1986/87 show the same basic patterns. The three category one predominantly white institutions still had the highest average salaries,

and this is now in table 5-1(a)

The Jackson State average followed, although it was very near the same as Delta State and Mississippi University for Women, and, again; the category three predominantly black institutions were still the lowest paid.

Between 1979/80 and 1986/87, the average salary gaps had increased between the predominantly black and the predominantly white institutions.

The salary patterns by rank generally are consistent with the overall average. That is to say when you compare the full professors at the predominantly black institutions versus the full professors at the predominantly white and so on.

The clearest differences among the institutions are noted at the highest ranks. Full professors, for example, at the five predominantly white institutions earned thirteen point eight percent more than did the faculty at the three predominantly black universities in 1979/80, and twenty-three percent more in 1986/87.

The next variable that I looked at was the distribution [580] of faculty by rank.

In 1981/82, faculty in the traditionally white institutions were at higher ranks in much greater proportions than was the case at their counterpart black institutions.

By 1985/86, the percentage of full professors in each of the predominantly black institutions was still less than the comparable percentage in each of the predominantly white institutions, averaging—again, this is a simple average—averaging seventeen point four percent in the former and thirty-two point six percent in the latter.

Conversely, the average percentage of faculty who were at the lowest professorial range of assistant professor in 1981/82 was forty-two point three percent at the predominantly black institutions and only thirty-one point seven percent at the predominantly white institutions.

By 1985/86, the percentages were thirty-four point three and twenty-seven point four percent, respectively.

Of—the third variable that I looked at had to do with the highest rank held, and the differences of the highest degree held. Excuse me.

The highest degree held, in part at least, explains the differences in ranks held and the differences in salary. For example, in table 5-2 and 5-2 (a), we see that the faculty at predominantly white institutions have tended to be more likely to hold the doctorate than have the faculty [581] at the predominantly black institutions.

However, the percentage holding a doctorate at Jackson State at almost sixty-five percent is roughly on the par with the percentage at the predominantly white institutions, and this includes the category one institutions. And that reference is, again, table 5-2 (a).

Finally, in regard to tenure, on the whole, predominantly black institution faculty are markedly less tenured. Most recently, the lowest tenure rate is noted at Alcorn and the highest is at Mississippi State, and this is for the last year of my analysis.

Jackson State had roughly the same tenure rates as the other two category one universities, whereas among category three universities the tenure rate is conspicuously low, and at the Mississippi University for Women, it is conspicuously high.

Q. Dr. Leslie, did you compare the financial patterns between black and white students in Mississippi?

A. Yes, I did.

Q. With respect to that category, that analysis comparison and your sub-categories, what were your findings relative to the total E&G or education and general expenditures?

A. Let me just say, if I may, a word in background as to how this was done for clarification purposes.

What I was interested in doing here was comparing the [582] financing of the black versus the white students, regardless of where the students were enrolled.

This was done through weighing each institution's expenditure data by the institution's relative black versus white enrollments. This gives us an estimate of the funding by race.

Now, this approach, of course, assumes that black and white students are distributed across the programs of the institutions in an even way, that is to say that there is no bias resulting from greater enrollment of either black or white students in more or for that matter less expensive programs.

Of course, based upon our knowledge of how blacks distribute themselves across curricular nationally and based upon some limited data available to me in Mississippi, one would suspect strongly that the technique does bias the data by over-estimating financing of black students. This is because blacks tend relatively to over-enroll in the lower cost programs, such as in the social sciences, the humanities and education schools and to under enroll in more expensive fields, such as physical sciences, engineering and the professional schools.

So, the information that I am going to give you in response to you, Mr. Marshall, should be considered, I think, a conservative statement of the extent to which whites are more favorably treated, as the results will show, than blacks.

[583] There is one other item I want to mention on the other side of the – of the ledger, and that is because black students are more likely to receive student aid, assigning average student aid figures to white students biases those figures in an offsetting kind of way.

One last thing in regard to the background of this, and that is because up through 1968 there were essentially no

black students enrolled in predominantly white institutions and no white students enrolled in predominantly black institutions, the results don't vary from those results taht we have already discussed. It is only when you begin to see movement of black students into the white institutions and to a lesser degree white students into black institutions that the results that we have already looked at begin to differ.

So, regarding total education and general expenditures, I would refer the Court to a report labeled Hoover report, parenthesis, black versus white, Exhibit 694 (r).

As I have already noted, up through 1968 the results are essentially the same as those we have already looked at.

In 1968, the total N&G expenditures still favor white students over black students. The institutional gap that we looked at earlier was thirty dollars greater than the student gap. Specifically, eight hundred and seven dollars more being spent on the white students when you look at it on an institutional basis versus seven hundred and seventy-seven [584] dollars when you do this weighted system in this part of the analysis.

In 1980, per student total education general expenditure, the gap between white and black students was seven hundred and seventy-four dollars, whereas the institutional gap was eleven hundred and two dollars.

In 1986, the student gap was eighteen hundred forty dollars and the institutional gap was twenty-four hundred seventy-eight dollars.

* * * * *

[586] Q. Dr. Leslie, did you analyze the Mississippi higher education funding formula?

A. I did.

Q. And what were your findings relative to that analysis?

A. I did.

Q. And what were your findings relative to that analysis?

A. Well, the primary test that I employed in examining the formula by which Mississippi allocates its resources across the eight universities is the extent to which an equitable distribution of those resources results.

Now, since the information we have already looked at comes from the financial reports, the examination of the formula is a means of allocating the State's appropriation or a good part of it, and that—those figures are represented in the financial reports, which we have already looked at closely.

Now, I do have some general observations, however, about the formula. I shoudl say first of all that formulas are by their nature conservative documents. They are promoters of the status quo, and the reason is that they are driven by, that is, they are based upon historical funding patterns.

In other words, formulas distribute resources on the basis of how those resources were distributed in the past. [587] That is essentially how they work.

To give you an example of how a formula works, just taking one department, this is a common approach that is used in formulas. It may or may not fit the specific case of Mississippi, but formulas essentially all work in the same way.

The common approach for a Physics Department would be to, say, take the departmental budget for a given year, divide that budget by the number of student credit hours that are produced during the year by the department.

This then becomes the so-called cost per student credit hour in physics. That number, then, or that number in combination with other units of physics might be joined together such as physical sciences, becomes either direct or

indirectly the weight or element in the formula that when combined across all units of the university, when multiplied through by the number of student credit hours generated, becomes the institution's allocation from the formula.

Again, the point of this is that the amounts in the formula, the weights, the elements, the factors come from the historical distribution of resources in the past.

There may be differences from State to State. In fact, probably all states that have formulas, about half of the states do, they probably all differ but they work on that same common base.

It seems to me that it is important to note that the [588] formula is responsible for many of the recent and past inequalities that I have already talked about that exist—that have existed historically when we compare the predominantly black versus the predominantly white institutions.

The—these past inequities will not be eliminated by our formula that perpetuates the status quo, and it does not compensate in some way for the past inequitable treatment.

The quality of the faculty, the facilities, the curriculum, the students, the quality of the students today is the product of past as well as present formulas in previous financing budgets.

The Mississippi formula, by its very design cannot eliminate effects of past without major changes in its fundamental nature.

MR. STEPHENSON: Your Honor, I move to strike. He has not said a word other than he knows Mississsippi has a formula. He has not identified the components.

He stated in the example that he used that it may or may not fit Mississippi.

THE COURT: Overruled.

BY MR. MARSHALL:

Q. Dr. Leslie, taking into consideration the entire analysis of some of the comparisons that you have made in this task, what opinions have you formed relative to the financing patterns in the State of Mississippi in its institutions of [589] higher education?

A. My general conclusion would be that overall both white students and traditionally white universities are in a favorable financial position when compared with black students and traditionally black institutions.

Although the gap narrowed between 1955 or 1960 and 1980, thereafter the gaps expanded so that conservative estimates are that expenditures on black students in Mississippi lagged considerably behind spending on white students.

This is true overall for total education and general expenditures, for instruction, for categories impacting directly on students and those impacting indirectly on students.

The discrepancies in my judgment are understood and interpreted most clearly, however, when financing of traditionally black and traditionally white institutions are examined.

The results do not vary greatly from those of the students because students tend to be enrolled along racial lines into institutions, especially the white students.

Usually per student income and expenditure figures in the predominantly black institutions trail those in the predominantly white institutions and usually the differences are major.

Yet, these differences, as important as they are, understate the true financial disparities between these institutions. Historically, predominantly white institutions

[590] have been better financed, and these differences are cumulative. The historical funding inequities manifest themselves in essentially all institutional aspects. The faculty quality—

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THE WITNESS: These financial inequities become important in examining the faculty that is recruited by institutions paying smaller salaries, by the quality of the programs that those fewer dollars are able to establish, by the fewer graduate level programs that those dollars permit, and then by a difference in the quality of the students, the number of students who will be attracted by faculty of a lower quality as determined by the financial resources.

Fewer resources also mean fewer opportunities for research, for graduate assistance and equipment, and such considerations are paramount to faculty as they take academic [591] employment.

Altogether, these factors mean a lower status, lower quality institution, and these conditions combine to attract less eminent and qualified faculty and students.

The seriousness of the discrepancies in Mississippi are appreciated most fully when one considers the cumulative effects of under-financing over time, and here additional insight is gained when total income and expenditures are considered too.

A discrepancy of a few dollars in spending per student may have little effect on a single year, but if this discrepancy continues year after year, sometimes less and sometimes more, the basic fabric of the institution being disparitly treated begins to vary more and more. That is what finances do. This is why universities are almost incapable of changing their prestige or status, real or perceived, except over long periods of time.

A university deveolps its character and its image over decades and longer. It is extremely rare for an institution to undergo major change in as little as a decade. Where this does happen, usually there is a massive influx of funds.

In the early years I examined in my study of the State of Mississippi funding of the eight Universities, the—Mississippi made the decision necessary—[592] He has not investigated what decisions were made on the educational bases on which a decision might have been made.

THE COURT: Read back that last response.

(Whereupon, the last answer was read.)

THE COURT: Well, I assume that he had to make some investigation of some decision, the decision as to what amount was to be allocated to what uniersity. I don't know what decision he is talking about there.

Go ahead and complete your answer.

THE WITNESS: My statement is a reflection of the allocation of the resources to the eight institutions from the State, and my point was that in its allocation decisions, the State made financial decisions that allowed three predominantly white institutions from the State, and my point was that in its allocation decisions, the State made financial decisions that allowed three predominantly white institutions to approach or reach true university status, but because its institutions were segregated at the time and perhaps because black enrollment—

MR. STEPHENSON: I object, Your Honor, he is speculating now. He is saying "perhaps" and he is getting ready to make statements concerning the duality of the system and—

THE COURT: Objection is sustained.

MR. STEPHENSON: He is trying to get in a legal conslusion that he is not qualified to express.

* * * * *

[593] THE WITNESS: The financial resources made available to the predominantly black institutions were not adequate to develop those institutions financially in the way of the predominantly white institutions were developed.

As a final summary statement, then, equity in funding between white and black students in the State, between traditionally white and black institutions does not in my judgment exist in Mississippi.

The funding equity improved until 1980. After that date, disparities again grew to [where there is an accumulated deficit due to long term financial disparities,] and these disparities are important to students. This may be true of financial resources—this must be true if financial resources—this must be true if financial resources make any difference whatsoever.

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[604] Q. With respect to—again, to your grouping of the predominantly black institutions with or as opposed to predominantly white institutions includes the three doctoral granting institutions, sir, isn't it true that you are comparing institutions of different program and curriculum and doing different things from an educational standpoint?

A. Are you asking about part one in which I aggregate all of the institutions together?

Q. Yes.

A. That's correct.

Q. And that is also true when you compared Jackson State with the three research doctoral granting institutions in this state?

A. It would be less true. That's right.

Q. Now, sir, before you were retained by the Department of Justice in t;his litigation, you wrote about the problems in making cost comparisons between or among institutions of different missions, didn't you, sir?

A. I have written a number of times about cost comparision.

Q. And you wrote specifically about the problems of making [605] cost comparisions between or among institutions of differing mission, didn't you?

A. Not for the purposes of comparing—considering the questions in this case.

Q. But in the normative sense where you were just making an educational judgment, is that correct, sir?

A. In the normative sense for what purposes for which costing studies are done.

* * * * *

MR. STEPHENSON:

Q. Dr. Leslie, I have handed you a publication entitled "Financing and Budgeting Post-Secondary Education in the 1980's."

Would you turn to page 27 of that document, please, sir.

Are you with me?

A. I am.

Q. There is an article there entitled. "Instructional Cost of Research Universities One," is that correct?

A. The title, yes, sir.

Q. Yes, sir. Below that, isn't it true, sir, that your name, Larry L. Leslie appears as author?

A. It does.

Q. In the first sentence, you state, do you not, that the [606] purpose of this report is to compare instructional cost among eight Western research universities one?

A. And to discern reasons for their cost variations.

Q. Thank you. But you go on to state, do you not, Dr. Leslie, that the data reflect also, in line four, cost comparisons among the three Arizona universities?

A. It does.

Q. And with respect to the Arizona universities, are you referring, sir, there to the University of Arizona, Arizona State University and Northern Arizona University?

A. Yes.

Q. Turn with me, if you would, please, sir, to page 28, the next page of your article.

The first full paragraph under the section a designation aggregated cost of Arizona universities.

Now, isn't it true, sir, that you state there in the first sentence that the temptation is very great to compare it directly to per student cost at the three Arizona universities?

A. Correct.

Q. And then you go on to state, do you not, sir, that such comparisons, however, are precisely why costing has earned a bad reputation and the disfavor of many professional individuals in organizations?

A. Correct.

Q. And then you explain why it has a bad reputation or bad [607] reputation results, do you not, sir?

A. I do.

Q. And then your next statement you say, do you not, such comparisons are largely without merit?

A. That's correct.

Q. And then you elaborate further, do you not, Dr. Leslie?

A. I do.

Q. And in your statement you say, don't you, sir, these comparisons – you actually use the word – they compare the proverbial apples and oranges, for the three universities are not similar?

A. I do.

Q. And then you go on to say, do you not, sir, they are expected to do quite different things?

A. Correct.

* * * * *

Q. I will restate my question.

You continue, do you not, on this page, sir, addressing the issue of the apple and oranges comparisons?

[608] A. I put it in terms of diversity and distinctiveness.

Q. Yes. Let's read what you say about diversity, sir.

In the second paragraph, the first sentence. Is it true, sir, that you state, the unique character of America Higher Education is embodied in the concept of diversity?

A. Correct.

Q. You emphasize the word diversity, do you not?

A. Correct.

Q. As a matter of fact, you place it in italics?

A. Correct.

Q. Then you state, do you not, sir, diversity is the quality that differentiates among colleges and universities.

A. Correct.

Q. And then you state, it is a quality of distinctiveness.

Did I real that correctly, Dr. Leslie?

A. You did.

Q. And then you go on to say, do you not, sir, this quality, this is the quality of diversity, says that there is no better or best kind of collegiate institution.

Did I read that correctly?

A. You did.

Q. And then you said, did you not, there are only different kinds, always with different expenses?

A. Correct.

Q. And then you referenced, did you not, sir, the fact that [609] you only find community colleges, predominantly undergraduate institutions and research and doctoral granting universities within a system?

A. I do.

Q. And then in the third paragraph you return to the three Arizona universities, don't you sir?

A. Yes.

Q. And there you recognize that the three universities are distinctly different?

A. I do.

Q. And you recognize there, do you not, sir, that they are classified different?

A. I do.

Q. And then in the fourth paragraph, you state, do you not, the Carnegie and similar type classifications were designed to place collegiate institutions into comparable categories so that a number of comparisons could, in fact, be made?

Did I read tht correctly, sir?

* * * * *

A. Correct.

Q. And then you conclude the paragraph, do you not, Dr. Leslie, with this statement.

Comparisons of similar institutions would seem to be far [610] superior to contrasts of colleges and universities intended to do quite different things.

* * * * *

Q. No, sir, let's talk just a minute about the scope of the study that you did and how you compared the three

Arizona universities which were of distinct and different missions, doing quite different things.

Isn't it true, sir, that first that you compared the University of Arizona with eight Western universities of [611] similar classification?

A. I did.

Q. And then you compared Arizona State University to a different group of regional institutions of similar classification?

A. Not in the Western research university study, no. Arizona State was compared to the other members of the Carnegie classification, which it resides.

Q. And then you compared Northern Arizona to other universities in the Carnegie classification in which that institution resided?

A. And in all cases, as pointed out in the first sentence of the article, to discern reasons for cost variations. That was my purpose in that study. It was not a study of equity in financing in any shape or form.

* * * * *

[612] A. And in making this study, before you made the actual comparisons between the three Arizona universities, you computed an index, did you not, based upon comparisons to like institutions in similar classification?

A. The study included an index.

Is that your question?

Q. Yes, it does, does it not?

A. It does.

* * * * *

[614] Q. All right, Now, sir, you did not follow this approach when you did your Mississippi study, did you?

A. Absolutely not. It is inappropriate.

Q. You did not make any attempt to compare the doctoral granting institutions with institutions of like kind, did you?

A. There are no such like institutions in the State of Mississippi.

Q. Well, you made no attempt to make a regional comparison, which you found it important in your Arizona study, did you?

A. There are no black research universities in the region.

Q. There was not another research one university in Arizona, was there, Dr. Leslie?

A. There are only three institutions in the State, one major research university and one doctoral granting and one comprehensive.

Q. And they were not like by mission, were they, sir?

A. No, they were not.

[615] Q. Just like here in Mississippi, institutions of different mission?

A. Not just like here in Mississippi at all.

A. They are with respect to being a different mission, are they not, sir, without attempting to specify the exact scope and program offerings?

A. There are different missions in the State of Mississippi and different missions in Arizona.

Q. Well, you made no attempt to compare Jackson State University with a regional institution of like classification?

A. I did not.

* * * * *

THE WITNESS: To say I made no attempt would not be accurate.

In the 1981 report, you may recall, there were some [616] national norm data looked at to compare all the in-

stitutions in the State. I found—I found those—that analysis to be singularly not useful, and it is not in the 1986 report, but the major reason that I considered that revenues and expenditures in other states were not germane was this was a study of Mississippi.

Q. It is an institutional study, isn't it, sir?

A. I would say it is a study of higher education in the State of Mississippi.

Q. And you have attempted to determine under your definition, what is your term "equity," have you not, sir?

A. I have an operational definition of equity.

Q. Wouldn't it be important, sir, to know how institutions compared with other institutions of similar classification?

A. I could think of a—probably a hundred things that would add marginally to the analysis. In my judgment, it would cloud the issue.

There is already a substantial amount of information here to—to synthesize to reach conclusions from.

I think it would be counterproductive to go and muddy the water more.

* * * * *

*[617] Q. Dr. Leslie, when we broke for lunch, we were addressing your failure to make institutional comparisons with institutions of like classification on a regional basis.

That data was available, wasn't it, sir?

A. I have no idea.

* * * * *

[618] Q. Well, sir, would it change your opinion to know that as late as 1983/84, that the per student appropriations at the University of Mississippi, Mississippi State University and the University of Southern Mississippi, the three predominantly white institutions to which you

have referred, were more than fifteen percent below the regional average for like institutions?

A. No, it would not.

* * * * *

[621] Q. Well, Dr. Leslie, would it change your opinion to know that the per student appropriation for the four regional universities, which includes two predominantly black institutions were more than twenty-five percent above the regional average for like institutions as late as 1983/84?

A. It would not.

* * * * *

[622] Q. And yet, sir, assuming the regional comparisons to which I just referred, which were taken from United States Exhibit 767(a) are correct, these same three doctoral granting universities are the very ones that are under-funded when compared with institutions of like classification?

A. [Well, my response to your whole line would be if you can show me where the black Mississippi universities are, I would be happy to compare them.

You don't have them in Mississippi. Your whole line of reasoning, as I understand it, Counsel, is that because the State has given most of the bulk of its money to these institutions, now you don't want to compare that.

You say that is not fair.

Why is it fair, because we gave them all of this money. That does not make sense to me as a financial expert.

* * * * *

[632] Q. Yes, sir, it is. Your income figures do not take into account the substantial sums expended for new facilities or repair and renovation?

A. No.

* * * * *

[634] A. I believe, sir, you indicated that your inclusion of the appropriations for the Mississippi Agriculture and Forestry Experiment Station and the Mississippi Cooperative Extension Service and the Veterinary Medicine School at Mississippi State is subject to some disagreement?

A. What I said was that the CUBA, College University Business Administration, allows the institution the discretion as to whether to generate a separate financial repor' for such functions or incorporate it into the single one for the institution.

Q. And whether the sums are appropriated or utilized with respect to the experiment station and Extension Service is a material consideration, is it not, for purposes of your institutional comparisons?

A. It is one of the half dozen considerations, I would say. Probably not the major one by any means.

Q. I believe you stated on direct, Dr. Leslie, when you were reading from your prepared text, that gaps were narrowed or reversed if the units were included.

Did you not mean to say, sir, excluded?

A. Well, let me restate my conclusion in that regard.

When the special Mississippi State units are excluded, the gaps between the predominantly white and predominantly black institutions decline.

* * * * *

[640] Q. You have made some comments today, Dr. Leslie, concerning student comparisons that you hjve made as opposed to separate institutional funding.

Isn't it true, sir, under your approach and your study that some black students would be treated more favorably in your opinion than other black students?

A. Yes.

Q. And isn't it likewise true, Dr. Leslie, that some white students would be treated more favorably financially in your opinion than other white students?

A. The word "some" is almost always true.

Q. Well, sir, isn't it true in your opinion that the approximately three thousand black students at the three major doctoral granting institutions are treated more [641] favorably financially than the black students enrolled in the predominantly black institutions?

A. Under my analysis?

Q. Yes.

A. That would be my assumption, yes, sir.

Q. And is it not also true, sir, that the black students at the University of Mississippi and University of Southern Mississippi and Mississippi State University under your analysis would also be treated more favorably financially than the white students at Mississippi University for Women and Delta State University?

A. Under my analysis, I would assume that to be the case.

* * * * *

[644] Q. Now, sir, as I understand what you have done with respect to your analysis, your opinions are based upon data obtained from the financial reports, is that correct, sir?

A. The financial data primarily come from the financial reports, yes.

Q. And, isn't it true, sir, that the opinions which you have expressed are on a comparative basis?

A. Yes.

Q. My point is, sir, you are not attempting to address in your analysis, are you, sir, the ability of an institution from a funding standpont to fulfill its mission?

A. No, no.

Q. Nor, sir, are you analyzing or expressing any opinions with respect to whatever the institutional goals may be from an educational standpoint and the impact upon funding on those goals?

A. No. For the reasons that I have stated earlier, these missions and goals to a great extent are derived from the money made available to the institution.

So, to my knowledge, that becomes a moot point.

Q. Well, sir, you are not assessing the educational [645] justification, are you, for the Board of Trustees' allocation of money in this State, are you?

A. Assessing their motives, did you say?

Q. Motives or the educational justification.

A. Not that is not my function at all.

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[657] **TESTIMONY OF DR. RODNEY FOIL**

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[658] Q. Dr. Foil, by whom are you presently employed?

A. By Mississippi State University.

Q. And in what position are you employed?

A. I am the vice president for agriculture, forestry and veterinary medicine.

* * * * *

Q. Dr. Foil, what are the duties of your present position?

A. I am a vice president of the university with primary responsibility for providing leadership and direction to the agriculture, forestry and veterinary medicine units on the campus and around the State.

Those units include the Mississippi Cooperative Extension Service, the Mississippi Agriculture and Forestry Experiment Station, the Forest Products Utilization

Laboratory, and I share responsibility for three academic units with the professors whose academic units are at the College of Agriculture and Home Economics, the School of Forest Resources [659] and the College of Veterinary Medicine.

Q. Dr. Foil, is there a relationship between the Mississippi Agricultural Forestry Experiment Station and the academic units of Mississippi State University in its land grant activities?

A. Yes, sir, there is a relationship in that the research units report to the vice president, as do the academic units that have agriculture and forestry interests.

Q. Is the relationship the same between Mississippi Department of Coopoerative Extension and the academic units of Mississippi State University?

A. Essentially the same.

Q. Dr. Foil, what is a joint appointment?

A. A joint appointment, we use it at Mississippi State University as an appointment in which the salary or wage of an individual employee is shared by two or more budgetary units within the campus.

Q. Are there joint appointments involved in the areas that you are responsible?

A. Yes.

Q. And in what areas are those?

A. It is quite common for researchers, research scientists in agriculture and the forestry experiment station and the forestry products utilization laboratory to be jointly employed by those research organizations, and the appropriate [660] academic unit at Mississippi State.

Q. How many joint appointments are there at Mississippi State University between the Mississippi Agricultural and Forestry Experiment Station and the academic units?

A. It would be an approximation, but approximtely one hundred and fifty.

* * * * *

Q. Are there joint appointments between the academic units and the Mississippi Cooperative Extension Service?

A. There are. A relatively few compared to the research appointments.

Q. And can you tell me how many exist?

A. Somewhere less than ten or close to ten.

Q. Are there joint appointment between Mississippi Cooperative Extension Service and the Mississippi Agriculture Forestry Experiment Station?

A. At the present there are three.

[662] Q. My understanding is correct of what you just said, Alcorn – what is now Alcorn State University had been designated prior to, as a land grant institution, prior to the designation of Mississippi State University?

A. That is my understanding from reading the histories.

* * * * *

[3064] Q. Where has the federal government chosen to house federal agricultural research facilities in this state?

A. The primary locations for both the agricultural research service and the U.S. Forest Service are at Starkville, Stoneville, Oxford and Gulfport.

Q. Okay, Tell us briefly what all is located at Stoneville.

A. Stoneville, Mississippi, is the home of the Delta branch experiment station which is part of the Mississippi agricultural and forestry experiment station. It's also the physical location [3065] for several research units of the agricultural research service, a research unit of the U.S. Forest Service, a service and research unit of the U.S.

Weather Burea, the crop weather reporting station. The economic research service and extension specialists under the direction of the Mississippi Cooperative Extension Service are also housed at Stoneville.

Q. Okay. All right, sir. You mentioned the Mississippi agricultural and forestry experiment station. Precisely what is that?

A. The Mississippi Agricultural and Forestry Experiment Station is an entity created by the legislature of the State of Mississippi in response to federal statutes passed in the late 1800's. That entity is charged by both state and federal statute with the conduct of agricultural and forestry research to support the existing agricultural industries and rural industries of the state and to discover new knowledge that might lead to improved productivity and economic development in rural Mississippi.

* * * * *

A. I think I should point out, of course, that the legislation that created the experiment station designated that this entity would be responsible to the president of Mississippi State University, and through him, to the Board of Trustees Institutions of Higher Learning and ultimately the Mississippi [3066] legislature.

So the experiment station is, on the one hand, a separately funded state and federal entity, and on the other hand, an integral part of Mississippi State University and of higher education within the state.

Q. What is its relationship, if any, with Alcorn State University?

A. The experiment station, for many years, had an informal relationship with the faculty and administration in agriculture at Alcorn State, but beginning in the late 1960's, and specifically being formalized in 1971, the experiment station and Alcorn State joined in the creation of

the Alcorn branch of the experiment station through legislation at the state level.

In addition to the conduct of research jointly through the Alcorn branch, the experiment station scientists and administration participate with scientists and administrators at Alcorn State University in plannning and conducting other research programs authorized and funded for Alcorn State but not involving funds made available through the Mississippi legislature.

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[3083] **TESTIMONY OF DR. RODNEY FOIL**

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Q. You testified that you have approximately eight hundred undergraduates, I take it, seeking the BA in one of the agricultural fields?

A. It would be approximately eight hundred seeking the BS in the more traditional agricultural fields, yes, sir.

* * * * *

Q. And you have your three hundred graduate students. Focusing on your eight hundred grads, forgetting about the home economic students, approximately how many of those students are black now?

A. That's undergraduates?

Q. Yes.

A. My memory serves me correctly, approximately sixty.

[3084] Q. Sixty, sir?

A. That's my rememberance, approximately sixty.

Q. And about your three hundred graduate students, how many of those would be black?

A. Current year figures don't come to mind but approximately thirty.

Q. And if you would remind me, sir, you've been at Mississippi State for how long?

A. Since 1969.

Q. When was your first black student in the agricultural program there?

A. I do not have that information. They have been there almost since – as long as I've been there.

Q. Almost as long as you've been there they have had black students in agriculture?

A. At Mississippi State University, I know that. And I was in the school of forest resources for the first eight years that I was at Mississippi State and not in the college of agriculture.

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[3086] **TESTIMONY OF DR. RODNEY FOIL**

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Q. You think they do a good job at Alcorn?

A. I think so, based on my exposure to their graduates.

Q. Okay. What, in your view, is the mission that you just alluded to?

A. The mission is under the mandate of the Board of Trustees to serve as a regional university with primary focus on the residents of southwest Mississippi, but obviously the broader [3087] mission of attracting individuals who seek instructional activities and experiences in the environment that's offered at Alcorn State University.

Q. What do you mean by that, sir?

A. It's difficult for me to make it any more clear. They do have a regional mission comparable to the other regional institutions in Mississippi. They serve a segment of the population in a geographic part of the state that has a high percentage of rural limited resource individuals who might not otherwise be able to secure the benefits of a col-

lege education in the absence of an institution such as Alcorn State.

In addition, they serve a cultural group that has affinity for that institution through its long and illustrious history and the alumni relationships that result in desire on the part of parents to send their children to that institution so that they might also benefit from the experience that had served the parents well.

Q. You're saying basically it's been a black school and there's a lot of blacks that have gone there and their children go there?

MR. GOODMAN: That's not what he said and –

THE WITNESS:

A. That's not what I said.

MR. GOODMAN: –and I object to counsel characterizing it like that.

[3088] MR. CRENSHAW: It's cross examination, Your Honor.

THE COURT: The witness I think is capable of defending himself.

THE WITNESS: (Continuing.)

A. Uh-huh. I –

THE COURT: Overruled.

MR. CRENSHAW:

Q. What is the particular cultural group that you just alluded to, sir?

A. It is black citizens of this state.

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[3104] **TESTIMONY OF DR. RODNEY FOIL**

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Q. You may explain the mandate of the Farm Bill of 1977.

A. Thank you.

Q. If you would like, sir.

A. I'd like to. The Farm Bill of 1977 stipulated that recipients of funds under the provisions of the Hatch Act and of what's now known as the Evans-Allen Act should submit annually a comprehensive program of agricultural research for the states within which those institutions were located, receive approval of that comprehensive program prior to the expenditure of the funds made available under those two pieces of legislation.

Q. Now, Dr. Foil, could you state, then, what section fourteen forty-four of the Farm Bill of 1977 states? If you know it precisely or in a general sense, just – will you just relate what fourteen forty-four is?

A. I'd have to have my memory corrected if this is wrong, but it's my recollection that it is the definitive legislation which is now known as the Evans-Allen Act which did establish a program of research in the institutions authorized by the Second Morrill Act of 1890 plus Tuskeegee Institute to support agricultural research programs in those institutions.

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[3122] Q. Excuse me, sir. What I was talking about was that in the late 1970's for the first time, sir, 1890 institutions started getting federal direct funding? Is that –

A. Uh-huh.

Q. Now, that's what – and I was saying when they got direct funding there was restrictions on them using the federal money to pay fringes; is that correct?

A. That's correct.

Q. And that's when the state legislature first funded them to pay fringes for federal money? Now, if you want to explain that, you may. Is that not correct?

A. No, you have now not explained it. And the answer to your point is yes.

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[675] **TESTIMONY OF DR. SAMUEL LEE DONALD**

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Q. Dr. Donald, by whom are you employed?

A. Alcorn State University.

Q. In what capacity are you employed?

A. I am Director of the division of agriculture, research, extension and applied sciences.

Q. Dr. Donald, what is your employment history at Alcorn Universtiy?

A. I have been employed at Alcorn since August 1, 1979. O have served the institution as associate professor of agriculture and economics, and the administrator of the units I just mentioned.

[676] In 1981, I became administratively responsible in extension and research.

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[683] Q. With reference to the thirteen counties, in which Alcorn operates an Extension Program, is there another Extension Program, in operation now in those counties?

A. Yes.

Q. And what Extension Program is that, please?

A. The Mississippi State Extension Program.

Q. Is there –

A. Corporate Extension Service of Mississippi State.

Q. Is there a cooperative effort in those thirteen counties between the two Extension Programs?

A. Yes.

Q. Would you describe that effort, please.

A. Well, I will use the term "by law". There can be only one Extension Service in the State, and the individual that is responsible for the Extension Program in a given county is the county agent and/or the county leader.

In most instances that is the county agent. So, the—the plans of work speaks to one Extension Program in that [684] county.

Our program assistants are supervised on a day-by-day basis by the county leader or county agent.

Q. All right.

A. We do plan our programs together, our plan of work goes into Washington under one umbrella or under one folder.

It is the Alcorn and Mississippi State plan of work. I think they are separated in the folder.

You can identify the Alcorn program from the Mississippi State program. I think they are separated in the folder.

You can identify the Alcorn program from the Mississippi State program.

Q. I believe you have indicated that your—that the Alcorn Extension Program is limited by resources, by funding?

A. Yes.

Q. Has Alcorn sought to increase its funding?

A. Yes. We attempted to get more of the funds that comes to us from the Federal Government, and on some occasions we have asked the State for more funds, but we do so through Mississippi State.

Q. Why did you seek your funds—why does Alcorn seek its funds for the experiment program through Mississippi State, in other words?

A. It is difficult to say, but in—in times of not having the right—as I understand it, not having the right clout [685] with the State legislators, it was decided that it was better to go through Mississippi State and ask them to include in their budget a budget line item for Alcorn State University.

And that is the way we receive the hundred and eight thousand dollars, in a line item in the Mississippi State budget.

When we want additional funds, we just simply mention it to either the President of the Extension Administrator or Extension Director of Mississippi State, and our request is either honored or not.

* * * * *

[687] Dr. Donald, does—does a research program in agriculture land grant have an impact on agricultural resident instruction?

A. Yes. And it does so in the fact that the facilities and equipment and so forth that we purchased for research was also used in our teaching unit, and it is not—it is not illegal to do that.

It is not an audit negative finding to find at any institution where you have joint appointments or joint activities where the facilities for one is used for the other.

So, that is the greatest impact that it has had. The research has allowed us to increase our staff, because through joint appointments now we can have twenty warm bodies where before we had only maybe ten or twelve.

Q. Dr. Donald, does an Extension Program impact on a research program?

A. Yes. It would probably have more in the future than it has had in the past, because we are encouraged at the federal level to have more coordination between research and Extension. Research finds answers to problems for which Extension carries to the client, as the Extension is sort of a dissemination arm of our research efforts.

[688] Q. Dr. Donald, does the Extension Program have some type of resident instruction?

A. Yes. Along the same lines, the information that we get from the researchers and the information that we put together for Extension purposes, that information is also taught in the classroom.

Teachers carry that information to their classes, not only the one that we teach on campus, but those that might teach in outlying areas, so the Extension does have an impact on resident instruction also.

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[692] Q. Could you just summarize as to what, in your opinion, as to the relationship with A.S.U. and M.S.U. as far as the land grant program is concerned?

A. I feel that we have got a good working relationship between the two institutions for our land grant activities.

It could be better in some respects, as any relationship probably could be. The funding that we receive directly from the State is not to the level that we would want for what I consider to be a well-rounded quality program that our clients and our students need, but the relationship that we have, the relationship that we have developed over the years is a good relationship.

We can pick up the phone, we can talk to each other. Now, about programs, about activities that we might want to jointly sponsor or participate.

Mississippi State is an institution that has a lot of resources that Alcorn can draw upon, especially when you are talking about Research projects or Extension activities, but that relationship is a relationship. The needs go beyond that relationship.

* * * * *

[697] Q. Now, just a question or two about Extension for clarification.

A. Okay.

Q. You said on direct examination – but now I will ask [698] you – by law by law a single Extension Program was required for each state, did you not?

A. That's correct.

Q. Are you referring to State law or Federal law?

A Federal law.

Q Federal law?

A. Yes.

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[702] **TESTIMONY OF DR. RUPERT G. SEALS**

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[717] Q. Dr. Seals, what is a land grant institution?

A. A land grant institution can be defined several ways. I like to use two ways, if I may.

One is it is defined by congress. The original legislation enabling land grant institutions was passed on July 2nd, 1862, which porposed to allow states to either sell federal land equally to, thirty thousand acres to Congress, and put the fees or funds into a permanent endowment, or if the State did not have land, they would give it script.

The colleges so set up were to teach specifically agriculture and mechanical arts, as well as any other classical subject that the college may choose or that the people may choose.

In 1887, an Agriculture Research Act was passed, which specifically in the title of the Act, as well as elsewhere in the Act, connected it to the July 2nd, 1862 Act, except this specific Act was for agricultural research.

In 1913, the specific Act was passed for agricultural extension for farmers, and this specific Act was also connected to the July 2nd, 1862 Act in the title of the Act, and the – These three Acts with their wording and with their

connectural nature, really defined the land grant college.

It is to teach agriculture and mechanical arts, but also [718] to do research in agriculture through what is called experiment stations in each state and/or its subdivisions, and to extend knowledge to farmers as of the 1913 Act.

* * * * *

[736] Q. Dr. Seals, in your experience as an administrator of land grant colleges, and also your experience with the United States Department of Agriculture as a coordinator of the 1890 land grant program, is there an impact on the resident instruction program of a land grant institution by a research program?

A. Yes.

Q. And would that impact be?

A. The impact would be first the student, whether he be a graduate or undergraduate, has the opportunity to be exposed to a professor who is on the cutting edge of his field.

The professor is not reduced to relying on just reading materials for his overall experience.

Okay. Another added advantage or another advantage of this, of having research is that the graduate students are—are, of course, employed, graduate students are just a little bit older than undergraduate students.

An undergraduate student gets used to seeing a graduate student around. An undergraduate student may, as a result [737] get to participate in a part of research that if it were not going on, he would not get to participate possibly in doing some of the work on a college work study basis.

The advantage for the university itself is that it is—it is accepted that programs strengthen undergraduate programs because the professors in research usually are in graduate programs where master's or doctorates or both are given, and this is the same professor who teaches undergraduate, along with his graduate program. This is

know to strengthen undergraduate programs.

Q. Again, relying on your experience as an administrator at a land grant institution, your experience with the United States Department of Agriculture, your relationship to land grant programs and your education in the land grant area, is there an effect upon research by an Extension Program?

A. Yes. It is probably not always ideal in terms of the individuals who are involved, but ultimately Extension has an impact on the type of research that is done.

The theory, the problems that the Extension worker sees up in the field with farmers and so forth are communicated back to the university and to fellow researchers, who are his cohorts and depending upon the nature of the problem, it is worked upon and ultimately results are gotten back out.

It is not quite as simple as that, because the collective land grant system actually reinforces itself. Sometimes a [738] problem need be solved across State lines, depending on what the commodity is, and it is fed back that way, but the system reinforces itself.

Q. Dr. Seals, would it be your opinion—do you have an opinion whether or not an institution, a land grant institution that does not have a Research Program, whether or not that land grant institution's resident instruction program is negatively impacted?

A. Is what?

Q. Negatively impacted by the absence of a Research Program?

A. Yes, I have an opinion.

Q. What is your opinion?

A. My opinion is that an undergraduate student in such a situation does not get the feel of how research is done and what kind of efforts and work and resources it takes to get it, and I think that is a negative impact on that particular individual.

Q. Is a resident instruction program impacted negatively by the absence of an Extension Program—by an Extension Program?

A. Yes. Probably not in as direct a fashion, but, again, at Nevada, for instance, we are relatively a small institution.

We have had at least one or two people who are Extension specialists located on campus teach a course once every year.

That practice has proved to be important to us at least, [739] because it allows to use expertise that is already located on the campus and hopefully we do it at least cost, or least interference to the Extension person or persons themselves.

So, that is a—that can be a direct impact. I don't know that that is used very much. The other impact is that students come into contact with these people, particularly high school 4-H'ers, and I have seen many instances were they are influenced to come to college number one, and maybe major agriculture or some aspect of agriculture, number two.

* * * * *

[742] Q. I asked you if in light of your experiences as an administrator of two colleges of agriculture, if you had an opinion concerning the quality of education that a student at Alcorn State University in its land grant program would receive, and you said you did have an opinion, and I have now asked you what that opinion is?

A. Given pre-federal activity at Alcorn in terms of Extension, and given the very limited faculty that Alcorn had at that time, even with the programs that it was offering, there is no doubt in my mind that the students, or a student in such a program would complete the program without those contacts with the faculty that one assumes

that he gets from a very well-rounded education in a particular field he is in.

One of the advantages of joining a mature land grant institution is that instead of having three faculty in a particular curriculum or two faculty teaching fulltime, you have seven, ten, twelve, fifteen or twenty who can begin to go into subspecialties. The student cannot avoid being [743] helped by such a situation.

* * * * *

[770] Q. Could you please make a comparative analysis, if you could, please, sir, between those programs at Alcorn State University and the program at Mississippi State, if you can, please, sir.

A. Yes. The College of Veterinary Medicine is a thirty-two million dollar edifice before the program got started. [771] There is no College of Veterinary Medicine or similar facility at Alcorn.

The Forest Products Utilization Laboratory. The Forest Products Utilization Laboratory was authorized, I believe, in the early 70's, and went from a very small budget to the budget of several million at present. There is no such area at Alcorn.

I might say that the MAFES headquarters is located in the building. They call it the College of Veterinary Medicine.

Bio-chemistry is one of the departments in the College of Agriculture and certainly has a research function, and some of this type of research, I have done.

Alcorn has nothing closely resembling that. The Mississippi Agriculture and Forestry Experiment Station itself is probably bigger in personnel than Alcorn State University professional personnel, the entire campus.

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[776] MR. GOODMAN: To which we object, if the Court, please, for two reasons. It is repetitious. He just asked the witness to give him the perameters of land grant, which he did extensively.

Additionally, this question is leading.

THE COURT: Objection sustained.

MR. CRAMBLISS: Well, I—yes, Your Honor. I will back it up a little bit.

Thank you, Your Honor.

Q. Mr. Seals, during your period of examining Alcorn curricula, did you have an occasion to ever see on the drawing board attempts to start engineering endeavors?

A. No, I did not.

MR. GOODMAN: To which we object as being irrelevant to the issues in this lawsuit.

MR. CRAMBLISS: I will keep going.

Q. Could you go to 1985, page 152, IHL.

Just, again, just underline, and you can start there with one, two and three over the past year, but if you will just read the underline and then one, two and three over to—

A. Under that particular part of the paragraph, number one—

Q. Yes, sir. Then go on. Yes, sir.

A. And as I see here—Counselor, how did you want me to [777] respond to that?

A. Start, number one, two and three, and then you are finished.

A. I am sorry, I don't see three.

Q. Three says, a State increase in the number of industrial contractors at various segments of the wood using industry.

MR. CRAMBLISS: May I please the Court?

May I approach the witness?

A. Okay. I am sorry. I do see it now.

Number one, the award of the five hundred thousand, three year grant by EPA for work related to the onsite removal of toxic chemicals via land farming.

Two, receipt of a special wood utilization research grant from USDA for four hundred and thirty thousand dollars.

The next one, probability of renewal next year.

The State increase in the number of industrial contracts and various segments of the wood using industry.

Q. Yes. Now, could you—at the bottom, the underline, could you read what that is now?

A. Mississippi Agriculture and Forestry Experiment Station.

Q. Now, could you read the next to last paragraph. It is very short. Certainly the most notable.

A. Certainly. the most notable event during the past year was a full authorization for funding a warm water agricultural research center for Mississippi.

* * * * *

[778] Appropriations of three point five million dollars each was secured from the Mississippi legislature and the United States Congress in 1985.

These funds will enable construction of the most modern facilities in the United States and contains support for five years for high priority agricultural research at Starkville—at Stoneville.

Q. Keep going. It is short, two sentences.

A The Mississippi Legislature also authorized funding for a food product development program.

This additional funding, combined with the establishment of the new department of food science and human nutrition should greatly increase activity in the State's food processing industry.

Q. Okay. Thank you.

Now, the last one is 1986, the current one, please, sir.

A. All right.

Q. Page 155, please, sir. If you will just read the underline.

A. Mississippi Agriculture and Forestry Experiment Station.

Q. No, no. Well, you have been through that.

There is no need in going over those programs there. They are different, but we do not want to waste the Court's time, but based on what you did, Dr. Seals, did you have an occasion to meet with the various entities and find out just

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[784] Are you familiar with the relationship that exists between Alcorn State University and Mississippi State University, as it relate to Alcorn State having the ability to form a separate entity with USDA, are you familiar with that?

A. You mean to have a Cooperative Service with the USDA?

Q. That's correct. Do you understand my questions?

Don't ask me. Do you understand what I am saying?

A. Yes, sir. Historical times get involved here.

Q. But the Court needs to know this.

A. Yes, if I may say that. Historical time is involved here. The ability over the last one hundred years of Mississippi State first to be assigned certain duties, such as, special stations, such as the Extension Service, as a land grant college, and the legislation ask or requires that these duties be assigned to the land grant college or colleges, and in the original legislation, as it is called it, is plural and singular, rather, the assignment of these in 1988 the Experiment Station, 1916 Extension Service, their ability to then get federal funds, to match or even overmatch, which they do in this State, with State funds, and

other kinds of abilities, which I could cite, which over the years have given Mississippi State the ability to track these kinds of [785] installations.

Alcorn has been left out, if I may say, of possibly in the land grant area over these years whenever, though, it had the resident teaching function.

Its officials up until recently in the last decade and a half had virtually no interaction with other officials in the State relative to the land grant policy in this State.

When you do not have that ability to interact, you do not have the ability then to attract these kind of installations, which ultimately reflect upon your instructional capacity.

Agricultural research personnel, for instance, many times serve on committees for graduate students as advisors or as committee members, which means—which would mean that they would have input into thesis direction, sometimes even the thesis project may be in a particular area that they are working in, so the student only has to cross the street and get to work. These kinds of availabilities are not available to Alcorn.

The ability, then, of Mississippi Agricultural and Forestry Experiment Station and Cooperative Extension Service to a lesser extent and the College of Agriculture, as a whole, to attract additional agencies and funds is due to the historical generous funding of those units and the ability to interact both within the State and on the national level [786] for attracting these kinds of facilities.

It certainly has the quality and adds to the quality.

[835] * * * * *

CROSS EXAMINATION

* * * * *

Q Dr. Seals, desegregation was not your assignment from the Justice Department, was it, sir?

[836] A. No.

Q. As a matter of fact, you do not hold yourself out as an expert on higher education in desegregation, do you?

A. No.

Q. Your assignment was to review the resources emanating from the State of Mississippi to two land grant colleges to determine if any disparaties exist, is that correct?

A. That's correct.

Q. And in making that review, you limited yourself to what you considered to be land grant facilities?

A. Land grant facilities and resources, yes.

Q. Now, you received your assignment from the Department of Justice, I believe?

A. Yes.

Q. Not the United States Department of Agriculture?

A. That's correct.

Q. When you used the term disparity in describing your assignment, you are simply talking about differences and the size of that difference, are you not?

A. Yes, yes.

Q. I believe you told us yesterday afternoon that you reached the conclusion that there was a vast difference in allocation for instruction between Mississippi State University and Alcorn State University?

A. In terms of land grant activities, yes.

* * * * *

[838] Q. How much larger is Mississippi State than Alcorn?

A. In what terms?

Q. In terms of overall size.

A. You are asking me about the campuses of the land grant?

Q. Overall.

A. I have not looked into that.

Q. Did you make an analysis based upon the respective sizes of the student bodies at the two institutions.

A. I know the sizes as of, I believe, Fall of 1986 in terms of enrollment.

Q. Well, tell us what those enrollments were?

A. Two hundred, I believe, at Alcorn, and eleven ninety-eight at Mississippi State.

Q. Are you talking about enrollment in agriculture?

A. I am talking about enrollment in agriculture, yes.

Q. All right, sir. Do you know the overall enrollment of the two institutions?

A. No. I do not.

Q. Did you make an analysis considering the number of degrees in agriculture granted by each institution?

A. Not recently, no.

Q. Sir?

A. Not recently.

[839] Q. Well, I am just trying to find out what you did, and is it correct that what you did was you compared dollars received and buildings and programs at the two institutions?

A. Yes.

Q. And simply subtracted one form the other?

A. The subtraction is implied. I did not carry it out.

Q. Well, tell the Court, if your assignment included an analysis based upon whether the resources flowing from the State of Mississippi were adequate or inadequate for educational purposes?

A. That was not my assignment.

Q. Adequacy was not a part of your assignment?

A. No.

* * * * *

[840] Q. What about efficiency, did your analysis take into account the efficiency of land grant programs at either or both institutions?

A. No, that was not my assignment?

Q. Did your assignment take into account curriculum needs at either institution?

A. I did not do a needs assessment. I merely looked at what they had at present and that well reflects past funding patterns.

Q. But you did not look at whether they need more, did you?

A. No, I did not.

Q. You did not look at whether you thought Mississippi State University had too many programs or too few programs in agriculture, did you?

A. No, I did not.

Q. You said at your February 6th, 1987 deposition, I believe, that you were not assigned to evaluate motive or intent or [841] good faith on the part of the State in allocating resources to these institutions?

A. That was not my assignment, that is correct.

* * * * *

Q. Your are really telling the Court as an expert, aren't you, Dr. Seals, that agriculture and forestry research is an educational activity?

A. Yes.

[842] Q. Are you telling the Court as an expert that you see a direct connection between instructional programs and research programs?

A. Yes.

Q. And are you also telling the Court as a land grant expert that Cooperative Extension work is an educational activity?

A. Yes.

Q. Aren't you?

A. Yes.

Q. As a matter of fact, that is the activity where the education is carried right to the consumer, right to the consumer, right to the public, isn't it?

A. Yes.

* * * * *

[843] Q. Now, tell the Court whether or not it was federal legislation which officially initiated land grant colleges?

A. I would say that in terms of initiating or officially initiating land grant activity, yes.

There were some colleges which we would not use to term land grant on that were established before the federal legislation.

Q. But as a practical manner, this all started in 1862 with the Morrill Act, didn't it?

A. The first or official legislation, yes, sir.

* * * * *

Q. And one definition of a land grant college is a college entitled to support from the Federal Government under the provisions fo the Morrill Act?

A. I would say that is correct.

* * * * *

[844] Q. Now, tell the Court which agencies of the Federal Government are involved in the funds and services associated with land grant institutions?

A. Let me start at the top. The primary department of Government responsible in Washington D.C. is the United States Department of Agriculture.

Q. All right, sir.

A. Which as we saw earlier has many agencies. It is subdivided into several divisions, each of which has three to six or so agencies.

The present division which houses the land grant agencies is called Science & Education Administration, headed by the Assistant Secretary.

It encompasses at least four or more agencies. Two of those agencies, one being the Cooperative State Service, which handles research funds going to the states, and the Federal Extension Service, another separate agency within that same Science & Education Administration, which handles Extension funds going to the states.

Of course, they are administered subject to the laws which we referred to this morning.

Q. All right, sir. I appreciate that.

Without being unduly complicated, then, is it accurate to say that the CSRS, which is part of the Department of Agriculture, [845] handles research money?

A. That's true.

Q. While the Federal Extension Service, is a part of the Department of Agriculture handles Extension money?

A. That's correct.

* * * * *

[847] Q. Maybe I overstated it a little in my question. Lawyers do that some times on Friday.

Let me ask it this way. When Federal Government sends federal money, Hatch money here to Mississippi, does the Federal Government have something to say about what it is going to be spent on?

A. Oh, yes.

Q. Does the Federal Government know before it sends it the type of programs that it is going to be spent on?

A. Yes. It has already been reviewed first.

Q. Already been reviewed by the Federal Government?

A. That's right.

Q. The budget has been reviewed?

[848] A. That's right.

Q. The plan for the use of the money has been reviewed?

A. That's right.

* * * * *

[849] Q. Does the United States Department of Agriculture recognize the Mississippi Agricultural and Forestry Experimental Station as the station in Mississippi to receive Hatch Act funds?

A. That's correct.

Q. And that has been true for a long time, to your knowledge, hasn't it?

A. Yes.

Q. Okay.

A. Since 1888.

Q. In addition, isn't it not a fact that the United States Department of Agriculture also administers a separate research program at each 1890 institution in this country?

A. And—yes, that is correct. As I think I said this morning, that came about largely as a result from the resistance of the states to sharing with 1890 institutions.

[855] Q. Is one purpose of the station to devleop new products?

A. That is done by stations. It is—it is an iffy affair, because you cannot always patent it, and no company wants to buy from you, but that is done from time to time, yes.

Q. That is one purpose of the research, is it not?

A. Yes.

Q. Is one purpose to improve products?

A. Yes.

Q. Is one purpose to develop new processes?

A. Yes.

Q. Is one purpose to develop and enhance product quality?

A. Yes.

Q. Indeed, is the purpose to improve consumer health and well being?

A. Yes.

Q. For the public?

A. Yes.

Q. Black and white?

A. Yes.

Q. And is the mission of the Mississippi Agricultural and Forestry Experiment Station educationally sound, based on your investigation?

A. Yes.

* * * * *

[863] Q. [864] Putting race aside for a moment, as an educator, isn't it a fact that it is important within any state system to have a land grant university at the highest possible academic level, at the highest possible research level, and with the highest quality of Extension work available?

A. I cannot disagree with that. The only thing I am trying to say to you, you could take that concept at any level. At any level you could say that – that a regional land grant university would give you a – the highest level capability and so forth.

So, I don't know that that necessarily follows.

Q. All right. Dr. Seals, are you aware that black students attend Mississippi State University?

A. Yes.

Q. All right. For example, do you have there in front of you this annual report of the Board of Trustees of 1983 that Mr. Chambliss handed you this morning?

A. Yes, sir.

* * * * *

Q. And would you read, please, about the black participation?

A. Within the student body, there were thirteen hundred forty-one black students at Mississippi State, some twenty-five black teachers, who have been reaccredited since 1976.

* * * * *

[865] institution probably could offer better quality than a small one?

A. Yes, that is—I think that is a given. I don't think it is an equal.

Q. All right. And you meant by that, I take it, better quality of instruction, better quality of research, is that what you meant?

A. Yes, sir.

Q. Better quality of research for the benefit of all citizens, black and white, is that what you meant?

A. Okay.

Q. Sir?

A. Yes.

Q. Better quality of Extension work, for all citizens?

A. Okay.

Q. Black and white, is that what you meant?

A. Okay.

Q. Now, currently, how many blacks are enrolled as students in agriculture and home economics in the State of Mississippi?

A. I—that was not part of my assignment, and I think you asked me earlier would I consider myself a desegregation expert. No, I do not have that information.

Q. Well, if it is true that there are currently approximately three hundred and twenty black students in the State of Mississippi enrolled in agriculture and home economics, and [866] if it is true that ninety-one of those are at Mississippi State University, then would you agree with me that approximately thirty percent of the black students in those fields in this State are directly benefitting from the quality offered by a major land grant institution?

A. I could not disagree with that.

* * * * *

[895] **TESTIMONY OF DR. EDSEL E. THRASH**

THE WITNESS: My name is Edsel E. Thrash, T H R A S H.

* * * * *

[897] Q. Dr. Thrash, where are you currently employed?

A. With the Board of Trustees of State Institutions of Higher Learning for the State of Mississippi.

Q. And in what capacity are you employed?

A. My title is the Executive Secretary and Director of the Board.

Q. How long have you held this position with the Board?

A. I have been affiliated with the Board since January of 1968. I have held this position since June 25th, 1968.

Q. All right. Dr. Thrash, what are your current duties and responsibilities as Executive Director, as Executive Secretary and Director of the Board of Trustees staff?

[898] A. My basic responsibility is to be knowledgable of the ongoings of higher education in the State and make appropriate recommendations to the Board of Trustees for governing authority decisions, and I am the liaison officer between the governing Board and the administrative operations of the universities.

[914]

* * * * *

Q. Thank you, Dr. Thrash.

Dr. Thrash, regarding the admission standard adopted by the Board of Trustees subsequent to the 1976/77 academic year, are you aware of the reason for not including a reference to high school grades or class rank in the admission requirements for the historically white institutions?

A. There was a serious lack of confidence in high school grade point averages across the state.

Q. Yet high school grade—excuse me.

A. Regardless of the national studies pertaining to grade point averages in high school, it was our belief that the standardized test would be to the best interest of all concerned, especially since the minimum requirements were so low in comparison to scores across the country.

Therefore, we did not include in our admissions standard, other than the flexibility areas, whereby high school grades would be considered in the admission standard.

Q. Dr. Thrash, high school grades were included in

the [915] admission standard of two of the historically black institutions, isn't that correct?

A. That is true.

Q. How did the Board reconcile its concern about high school grades with reference to the five historically white institutions admission policies with the use of the high school grades for use with two of the historically black institutions?

A. I do not recall percisely. I would suspect that the institutions may have had some input that would encourage the Board to identify that.

Q. But you don't recall the Board of Trustees reasons?

A. (Witness shakes head negatively.)

* * * * *

[919] Q. Is it within the discretion of an individual institution, Dr. Thrash, whether or not it will admit the total number of students that it may be permitted to do so under the quota?

A. Yes.

Q. As one of the historically white institutions, Mississippi University for Women discontinued the practice of admitting students with less than the 15 composite score on the ACT?

A. Is that a question?

Q. Yes, sir, that is a question.

A. I am not sure of the correct answer of that.

Q. Do you know, Dr. Thrash, whether Mississippi University for Women continues to admit students with ACT scores of 9 to 14 to its institution?

A. It is my understanding that Mississippi University for Women has been somewhat more limiting in their enrollment minimum in recent years.

Q. Okay.

A. I do not know the specifics. As long as they adhere to the basic requirements of the board policies, then they have the flexibility to adjust their admission standards upward at their discretion.

* * * * *

[929] Q. Are there specific educational or occupational qualifications for membership on the Board of Trustees.

A. The constitution specifies the qualifications for the Governor to use. I do not think it identified education or professional areas of importance.

Q. How many members are there on the Board of Trustees altogether, Dr. Thrash?

A. Thirteen.

Q. Dr. Thrash, I show you United States Exhibit 761. (Document passed.)

MRS. JOHNSON-BETTS:

Q. Dr. Thrash, of those persons serving presently on the Board of Trustees, if you will look at United States 761?

A. Yes.

Q. Could you identify the occupation of the members presently serving on the Board of Trustees, those that you know?

A. Mr. Bordeaux is an attorney, Mr. Bycus is a businessman [930] with special interests in lumber and timber, Mr. Jones is employed with the bank, Mr. Watson is now retired but was previously employed with the State School System, Mr. Rodgers is a businessman dealing with liquified petroleum gas and related matters, Mr. Jacobs is an attorney, Mrs. Betty Williams is superintendent of the

school, Dr. Lovelace is a physician, and Dr. Robert Harrison is a dentist.

You turn the page. Mr. Bobby L. Chain is a businessman, electrical fixtures, equipment, oil and gas, et cetera, Ms. Marion Simmons is previously a school teacher, Mr. Travis Parker, farming intrests, soybeans, rice, and Mr. Woods is an attorney.

Q. Okay.

A. Moving on to the next board, beginning in May of 1984, Mr. Bycus is an attorney, Ms. Martha Gill is no longer on the Board. She was a school teacher. Mr. Hickman is an attorney. Mr. Rushing is a bank executive. I have mentioned all of the others.

Q. All right, sir.

A. I may have missed Mr. Austin. He is an attorney.

* * * * *

[934] Q. Dr. Thrash, how many of the persons presently employed by the Board of Trustees in terms of the twenty-three persons on the operations staff are black?

A. May I name them for you?

I do not know the number without counting them.

Q. That is fine, sir.

A. Dr. Charles Pickens. He is the Academic Officer of our Board staff.

Ms. Bradford is a black person in charge of other office staff.

Ms. Eunice Avant is an accounting person responsible for the payroll, fringe benefits, purchasing of supplies.

Mr. Andrew Curry is the Chief Accountant of our office staff.

Ms. – Ms. Fannie Ware is responsible for our records and documents.

[935] and Mr. Nelson is a new employee in the management information system.

How many is that?

I believe that covers those employed on the Board staff that has direct input to Board recommendations.

Q. Dr. Thrash, of the six persons whom you named, how many of those persons would be appointed or would be designated as professional staff persons?

A. Dr. Pickens, Mr. Nelson, Mr. Curry, and Mrs. Bradford.

* * * * *

[938] Q. Dr. Thrash, what specific efforts were made by the Board of Trustees to enhance the quality of programs offered at the traditionally black institutions?

Now, since the 1974 Plan of Compliance.

A. At Jackson State, There were ten, twelve or thereabout new master's degree programs authorized.

* * * * *

Q. Excuse me. In terms of enhancing the quality of academic programs offered at the traditionally black institutions.

A. For each institution, there would be different things.

Q. Yes, sir. If you want to go that way, fine.

A. And that was one at Jackson State.

Q. All right, sir.

A. Plus a new unique program in meteorology was authorized for Jackson State.

The University Center located in Jackson has been

drastically curtailed, and, in fact, with few exceptions, courses offered by the other universities have been discontinued. Now, other than those exclusively available at other institutions, such as, achitecture at Mississippi [939] State, that is offered in Jackson.

The master's program in engineering continues to be offered in Jackson by Mississippi State and the University of Mississippi.

Other than that, the University Center is more and more utilized by Jackson State University. In fact, their continuing education staff has recently moved to the University Center headquarters.

Q. Dr. Thrash—

A. For Alcorn State University, we approved an associate degree and baccalaureate program in nursing.

Now, in all of the historically black institutions, we have adjusted our funding formula so that it would recognize the program responsibilities of the different institutions in such a fashion that they would receive fair and equitable funding from the State appropriated dollars.

* * * * *

[943] Q. Other than the specific type of specialized fields of study or areas of study you have identified for an urban institution, how would the mission of an urban institution differ from the mission of a comprehensive institution in the abstract?

A. It is more limited in the areas of study and levels of study and research and public service responsibilities.

* * * * *

[947] Q. Dr. Thrash, has the Board of Trustees reviewed the progress made by individual institutiosn of higher learning in terms of attracting other race faculty persons to be employed at those institutions?

A. The Board of Trustees has encouraged the universities [948] to search for faculty members of other race.

It has provided additional resources for this to be done. It also has obtained progress reports from year to year pertaining thereto.

Q. Regarding the progress reports submitted by the institutions has the Board of Trustees offered any comment to those institutions regarding their progress in recruiting other race faculty persons?

A. From time to time, discussions pertaining to the reports have taken place, and the Board continues to encourage all institutions to do the best they can with the resources available.

Q. Okay.

A. And the last accounting I had, we had over the years increased our black faculty members for our historically white institutions somewhere between fifty and sixty individuals.

* * * * *

[950] Q. I direct your attention to page 12 of this document. Under number one, Dr. Thrash, did the Board undertake or did the Board obligate itself in the Plan of Compliance to make special efforts to employ, train and promote qualified members of the other race?

* * * * *

THE WITNESS: The Board of Trustees instructed the institutions, and this is a voluntary decision on the part of the Board.

This plan is not an obligation. The plan was voluntarily entered into by the Board and no one else accepted the plan.

The Department of Health, Education and Welfare officials indicated that this was a satisfactory component of a plan.

A. But this is a voluntary thing, and as a result, obligations and instructions to the Baord—by the Board of [951] Trustees to the institutions was simply, this is a plan that, let's implement to the best of our abilities with the resources available.

Q. Dr. Thrash, on page 12, I asked, did the Board of Trustees undertake a commitment—commitment is better for you—to exercise special efforts to employ, train and promote qualified members of the other race?

A. That is true.

A. Thank you.

What steps, Dr. Thrash, if any, has the Board of Trustees taken to attract qualified other race persons to institutions of higher learning for employment as faculty?

Could you reference for me, please, the time period to which you refer.

A. If I recall correctly, this document was approved in 1974, I think.

Yes. The Board of Trustees requested special appropriations from the legislature, not recalling the precise year or time, but very soon after this was adapted.

Approximately a million dollars a year was appropriated for special use in efforts of this nature, efforts that are identified throughout the plan. That was a million.

And the institutions took these resources, meager as they were, and used them for various aspects of the voluntary commitments of the Board to encourage the institutions to [952] improve other race faculty.

Q. Okay.

A. The Board initially attempted to assist the universities with what were called Faculty Clearing House, whereby as institutions received applications from potential faculty members, if they did not employ those faculty members themselves, they would forward to us the credentials and we would maintain them.

We did maintain an inventory for a number of years. This did not prove to be a workable plan, so eventually we discontinued it.

Basically, the Board encouraged the institutions to take the resources available to make special efforts to recruit other race faculty members and provide some funds to do so.

Q. Dr. Thrash, regarding your reference to the Faculty Clearing House, during what years did the Board of Trustees maintain the centralized file?

A. I do not recall specifically. I would say three or four years at best.

Now, following the instructions to implement the plan as we could with the resources available.

Several years we maintained an effort to assist institutions in recruiting other race faculty members. This did not work.

Q. Did the institutions use the file maintained during [953] the three or four years that the file was maintained?

A. Some did, very sparingly because it was contrary to the basic procedures used by department heads, faculty members, deans in recruiting faculty.

Q. Was there a specific obligation in the Plan of Compliance regarding the maintenance of the centralized pool of applications from faculty persons not hired by a particular institution?

A. The Board included that in the final document of the plan.

Q. And was it also included in the final document of the plan that institutions would use the centralized pool for recruitment of other race persons, the faculty positions?

A. That did not prove to be a satisfactory procedure.

Q. My question, Dr. Thrash, was it also included in the Plan of Compliance?

A. Yes. It was included, okay.

* * * * *

[955] Q. Is that a million dollars for all eight institutions of higher education?

A. Yes.

Q. All right.

A. Of course, that was a special identified amount. All of the appropriations allocated to the institutions, the Board has asked the institutions to implement the plan as best they could with the resources available, and the institutions use substantially more dollars than just this million dollars that we are talking about here in the line [956] item or allocation process.

Q. Dr. Thrash, does the Board of Trustees post or advertise faculty vacancies at institutions of higher learning in an effort to increase other race faculty employment at the various institutions?

A. The Board does not advertise. The institutions initiate the employment of faculty members, and in following the process of the recruiting department head's selection, dean approval, vice president's approval, president's approval, it comes to the Board of Trustees for final approval of faculty appointments.

So, the Board does not get directly involved in the recruitment of faculty members.

* * * * *

[959] Q. Does the Board of Trustees usually approve faculty appointments to institutions of higher learning?

A. Yes.

Q. Has the Board of Trustees, Dr. Thrash, requested that historically white institutions or to the Board of Trustees their excess or overflow of applications from persons seeking [960] faculty positions to those institutions?

A. As I indicated previously, that has been—that was done for several years following the implementation efforts of this plan, andit has been discontinued.

* * * * *

[1073] **TESTIMONY OF DR. E. E. THRASH**

THE COURT: Okay. What is the Plan—what does the Plan say there?

THE WITNESS: All right. This part of the Plan deals with special efforts with scholarships for recruiting [1071] qualified graduate students of the other race to be trained and employed as future teachers at the institutions of higher learning in Mississippi.

The Board of Trustees approved in this Plan this

paragraph. Each year a total of ninety new minority students are anticipated to participate in this program.

By 1980, the seven year accumulation will provide a potential of six hundred and thirty additional minority faculty.

During the seven year term of the Plan, a substantial amount in dollars will be invested, in addition to minority faculty.

The Board will make a special request to the 1975 Mississippi legislature session for three hundred and forty-five thousand dollars to underwrite this program during the 1974/75 school year.

* * * * *

Q. The gist of the question is, did you not commit to employ [1072] six hundred and thirty blacks at the historically white schools during the period of the Plan?

* * * * *

Did the Board commit to hiring that number of blacks?

THE WITNESS: The Board did commit to this number of minority faculty with the understanding that the special request to the 1975 legislative session would make dollars available.

The dollars were not made available. The Board has utilized other funds to assist in implementing this Plan to the best of our ability with the resources available.

* * * * *

[1076] **TESTIMONY OF E. E. THRASH**

Q. Is it not true that—is it not true that starting in 1972, in terms of the Board composition, is it not true that starting in 1972, the Governor of the State of Mississippi appointed its first black member to the Board of Trustees?

Is that not true?

A. Yes.

Q. And is it not true that every governor since that time has appointed one black to the Board of Trustees Institution of Higher Learning?

Is that not true?

A. That's true.

Q. All right. Is it not true that presently there are three black members on the Board of Trustees of the Institutions of Higher Learning out of thirteen?

[1077] A. That's true.

Q. All right. Is it not true that during this same period of time, the Board of Trustees has never appointed a black to the LaBauve position?

A. Well—

Q. Nobody, nor has ever appointed—

A. That is true.

Q. And is it not true that you had various vacancies on the Board of Trustees during the period and that during the history of your tenure at least, that no black has ever been appointed to IHL to serve out a remaining term of vacancy?

Is that not true?

A. That's true.

Q. And is it not true that only this year—this year meaning this school year, Your Honor, that the Board of Trustees Institution of Higher learning had a vacancy, and that a Caucasian female was appointed to that vacancy?

A. To the best of my recollection, that is true.

* * * * *

[1078] Is it not true that since your tenure as Executive Director and Secretary of IHL that no black person has been appointed president of a historically white university?

A. That is true.

Q. And is it not true that during your tenure as Executive Secretary that no white person has been appointed president to a historically black university?

A. That's true.

Q. All right. Is it not true that during the period of time of your tenure that no program has been transferred from [1079] a historically white university and gives to a historically black university?

A. That is not true.

Q. Okay.

A. The Board transferred to Alcorn State University the nursing program, which had previously been administered by the University of Southern Mississippi in the Natchez area.

* * * * *

[1080] I ask you again, according to your recollection right now today, without reviewing anything, is it not true that they have never transferred a course from a historically—master's or PhD's from historically black university—I mean, a historically white university to the historically black university?

A. Not that I can recall.

* * * * *

[1133] **TESTIMONY OF E. E. THRASH**

Q. Dr. Thrash, isn't it true that Mississippi Delta Junior College had an ACT requirement of 12 for the programs qualifying one to transfer to an IHL institution?

[1134] A. It's my understanding that Delta Junior College does have an ACI admission requirement. I think it's 12?

* * * * *

Q. Is it not true that in the area of nursing at one discipline the ACT requirement for junior college is no different than the ACT requirement for senior colleges?

A. The Board of Trustees of the State Institutions of Higher Learning is responsible for all nursing programs, and the Board has established admission standards for all public nursing programs, and there is a requirement. I am of the opinion that junior colleges, in the large majority, do not have—even though they require ACT score for information, they do not use the ACT score for admission purposes.

* * * * *

[1173] Now, we must realize that due to the fact that the State legislation and the College Board have not allocated funds to Valley State the way it should be that Valley State is suffering a slow death.

* * * * *

[4103] Q. Dr. Thrash, I show you what has been marked as Board Exhibit 344 and I ask you sir, are you familiar with this document?

A. Yes.

Q. What is it?

A. This document is a tabulation of the state appropriations for new construction at public universities from 1970 through 1980.

Q. By whom was this document prepared?

A. I prepared this document myself.

Q. And on what was it based, please, sir?

A. It's based upon the annual report of the appropriations for new construction supported by state appropriations.

Q. And are those Board reports maintained in the ordinary course of business?

A. Annual reports of the Board of Trustees' operations.

[4104] Q. Okay.

MR. STEPHENSON: Your Honor, we offer into evidence Board 344.

THE COURT: All right. Without objection, it will be received. (Exhibit Board 344 received into evidence.)

MR. STEPHENSON:

Q. Dr. Thrash, referring to Board 344, please, sir, do you see the bracketed data and the number thirty-nine percent in the upper right-hand corner?

A. Yes.

Q. Would you explain what that calculation represents, please, sir?

A. That thirty-nine percent represents that portion of the state appropriations for new construction of public universities going to the historically black institutions, Alcorn, Jackson State and Mississippi Valley.

Q. Dr. Thrash, are you familiar with the amount of state appropriations for new construction at public universities during the period 1981 through 1986?

A. Yes.

Q. Would you state for the record, please, sir, the sums appropriated for each institution.

A. Alcorn State University, five million three hundred and thirty-three thousand zero one two dollars; Jackson State University, six million eight hundred and sixty-three thousand seven hundred and fourteen dollars; Mississippi Valley, two million four hundred and twenty, three hundred and fifty-nine dollars, for a subtotal for the historically [4105] black institutions, fourteen million six hundred and seventeen dollars and eighty—thousand eighty-five dollars. That's—the subtotal is fifty-one percent of the overall total.

The historically white institutions, Delta State University, zero appropriations; Mississippi State University, zero appropriations; the University of Southern Mississippi, five million nine hundred and sixty-six thousand four hundred and thirteen dollars; the University of Mississippi,

eight million three hundred and forty-six thousand dollars for a subtotal—for a grand total of twenty-nine million nine two nine four ninety-eight.

Q. And did you state, sir, the percentage received by three predominantly black institutions over the period 1981-1986?

A. Fifty-one percent.

Q. We're addressing here, Dr. Thrash, state appropriations. Are there sources of funds in addition to state appropriations utilized by the institutions for new construction and repair and renovation?

A. Excuse me, Mr. Stephenson, I had my mind on an item that I needed to clarify in these appropriations. They did not include any appropriations going to the Veterinary Medicine School or the Mississippi University Medical School, so I wanted that to be understood. These are not imbedded in the figures of either of these documents.

Q. Okay. Thank you, sir. And now my question with respect to sources of funds utilized by the institutions for capital improvements: Are there sources of funds in addition to state appropriations which are utilized by the institutions for new construction and repair and [4106] renovation?

A. Yes.

Q. What are they, please, sir?

A. Self-generating funds. Those funds that institutions collect come from a variety of sources, but they are not state appropriations. And then on many of the construction projects at the campuses, we have authority to issue bonds and the bonds are paid off over the years by self-generating funds collected by the institutions.

* * * * *

[4115] Q. Would you agree with me that in terms of

constant dollars, dollars spent in the period 1950 to 1960 on construction would buy a lot more?

A. Possibly.

Q. Possibly or surely?

A. Fairly certainly.

Q. Now, with respect to—Well, do you know how much was spent on the veterinary medicine school?

A. Approximately thirty-five million.

Q. Built on what campus?

A. Mississippi State University.

* * * * *

[1229] **TESTIMONY OF DR. ROBERT YOUNG**

Q. Dr. Young, you stated that you were involved in continuing education. Is that involvement limited to those—Could you—First of all, could you define continuing education for us?

A. At Mississippi Valley State, continuing education is a life long learning program that seeks to provide various kinds of education opportunities for nontraditional students, students who are not able to attend the university on a regular basis.

We have credit course offerings and presently around seventy-five students enrolled in that area.

We have none—We have home study courses where people [1230] can take courses at home. I think the number this year for that was around a hundred—Somewhere—I am not sure of the number of people enrolled in that.

We have the University Center for Economic Development, which is funded by the United States Department of Commerce, and this particular program provides technical assistance to small land owners and also small business people in the ten county area of Mississippi Valley.

We have the United States Department of Education funded high school accoustic project, where we serve

about one hundred students who live on campus and some who are transferred to campus for their high school equivalency instruction to prepare them for the high school equivalency examination.

In addition to that, we have childhood development social programs, a program where we train Headstart personnel for teaching in the Headstart, and we provide a number of workshops, conferences, et cetera to the general public. That is generally the program.

* * * * *

[1244] **TESTIMONY OF DR. ROBERT YOUNG**

Q All right. And did you have occasion to use the tools of the trade in terms of researching and consulting with various department heads and/or persons on the academic faculty at Mississippi Valley State University in preparing that document?

A. For the past two years we have had what we call the Committee on—Committee on Reform at Valley.

What we have been looking at was the past mission of the university and trying to project a mission for the future of Mississippi Valley that would be within the constraints of the mission as given to us by the Board of Trustees.

The documents that I presented in January of 1987, sort of summarized some of these concerns that we investigated. Some of the, more or less, the opinions of people who had been involved with Mississippi Valley State for some time.

Particularly, as concerns the question of the meaning of education that poor people have received in the Mississippi [1245] Delta.

What I attempted to address were the fact that, if you look at the history of the Delta, most of the residents of the Delta are black, most of them are descendents of former slaves, and print in the 50's, most of them had little

or no education, formal education whatsoever.

Mississippi Valley State was established in 1950, and for the first time we had a massive influx of in-service teachers and high school graduates to receive teacher education degrees, and a result of that, they returned to the newly established consolidated schools in the Mississippi Delta and many people, who had almost nowhere to go because they were being displaced in rapid numbers during that time by farm mechanization, they were given a basic education.

The reason why we address this issue, and I was particularly concerned, is because the past year when the—when the Board of Trustees of Higher Education submitted to the legislature recommendations to close Mississippi Valley, there was no concern whatsoever by the Board—and I have not seen yet in writing anything to talk about—the impact on Mississippi Valley State University.

And what this document shows is if Mississippi Valley State University had not been there, then three or four things would not have happened.

Number one, most of the black people in the Mississippi [1246] Delta would not receive—would not have received the basic education, because most of the teachers in the elementary and secondary education system are graduates of Mississippi Valley State University.

In addition to that, most of the administrators, most of the black administrators in those schools are also graduates of Mississippi Valley State University.

We looked at several documents to support this in terms of numbers in the Educational Reform Committee, but rather than deal with a number of statistics, I made just general statements, because the intention of the document was for the public, for general public consumption.

The second point was very crucial for me was in the second era, I subdivided the eras from 1960 through to the present time, Mississippi Valley State has had sort of a unique role in the State.

If you look at the Mississippi Delta, there were not many opportunities for poor people there, so the economy was pretty well sustained by social welfare agencies. Some of which were Headstart, the Community Action Agencies, the Welfare Department, the Food Stamp Programs and when you look at the workers in those areas, many of them were Mississippi Valley State University graduates.

As a matter of fact, if you look at the Headstart programs that serve the immediate five counties surrounding Mississippi [1247] Valley State University, what you will find is all of the programs, with the exception of one, were directed by Mississippi Valley State University graduates. Graduates sit on the Board of Directors for these programs. Most of the teachers were trained at Mississippi Valley State University, and this amounts to almost all of the early childhood education that is received by young people in the Mississippi Delta, black, black youngsters in the Mississippi Delta. There are few exceptions, such as, private day care programs.

So, the point I am trying to make is very crucial, not only for Ayers but anybody who is looking for higher education in Mississippi.

If you leave Mississippi Valley State out, and if they continue to limit the role like they just did in 1985 by reducing our programs, now, to seventeen, what is going to happen will be a number of poor people continuing to suffering—to suffer.

* * * * *

THE WITNESS: I can make the point very clear. If you

look at what is happening economically in the Delta, what [1248] we find is that many of the social welfare programs that are Government funded and many of the foundations that have poured money into the Mississippi Delta, they are withdrawing their support.

As a result of that, we would have a number of young people and elderly people who would not be receiving social kinds of benefits. So, we say that for the next few years, it would be crucial that Mississippi Valley State is given a more deserving role as far as economic development is concerned.

Somehow, somewhere people will have to find ways to make a living, and we, as a result of that, wrote the Government, United States Department of Congress to—to set up the University Center for Economic Development, and in that particular program, we are using that to redirect several of the departments at Mississippi Valley State to provide some kinds of technical assistance to business people and to farmers. All of that is within the restricted role of Mississippi Valley State University.

The last thing is in the area of education and some of the general liberal arts programs that we have. Now, that we have now. In 1985, we lost most of our education programs. I can be very specific on that.

In 1985, we lost the—all the secondary education programs that we had. That includes programs that prepare [1249] young people for science education, and the other secondary education programs.

We lost the business education program and that since then was reinstated, chemistry, gerontology, industrial arts, industrial education, office administration, which has since then been reinstated. Physics and in general these programs in the very—in the very recent past produce

teachers that crowded the halls of education throughout the Delta.

What is happening here now is that we only have elementary education undergraduate programs and physical education and music education. These are the only three programs that we can send young people into public schools. Our concern here is that there will be a teacher shortage in the very near future, unless we are given permission by the Board of Trustees to reinstate these programs, especially at the secondary level and to reinstate our Master's degree program in elementary education.

The role that we have had in the Mississippi Delta, which has been paramount, we will not be able to do that.

So, that was the final topic that was addressed in that particular paper.

Q. Okay. Now, Dr. Young, that is—you have said a lot, but let's be specific.

Now, you spoke about the role of Mississippi Valley State, but you did not define that role.

* * * * *

[1251] I will just ask him, do you recall the other roles the university played in those early years?

A. Well, there is one very important role, and that is in the later part of 50's, after the *Brown* decision, there were—there was a movement to try to register a number of black citizens.

Prior to that time, I guess back in Reconstruction, we had very few people registered to vote.

In main point—the main contention here was peoples ability to read and write. If you look at the impact on Mississippi Valley State, what you find is that the leaders in the voter education movement, especially these people who [1252] are helping in adult literacy in churches and

serious types of community organizations and adult education programs in the public schools, et cetera, these people, the leaders in these areas are teachers and what-not, and primarily Valley State graduates.

So, what I am saying here is one of the greatest fears—it is probably unfounded, but one of the greatest fears that exist about the Mississippi Delta and symbolized by the election of Michael Ethridge is that blacks will control the Delta politically in the very near future.

When you look at the blacks who have been elected in those various counties, many of them are valley State graduates. They were educated by Mississippi Valley State. They came through the public schools and they are taking on leadership positions.

Again, when you look—when you think about the roles of elected officials as far as Government or other people is concerned, then we have to go again back to the fact that this Mississippi Valley State has been very important in the development areas. I think that is the most important point.

* * * * *

Q. Doctor Stewart—withdraw that.

Dr. Young, could you tell us in your study, briefly tell [1253] Q. Could you, Dr. Young, give what the judge instructed?

A. The—when you look at the situation here in the Mississippi Delta now, unless there is some viable economic [1254] development opportunities set forth in a hurry, we are not going to be able to do very much for a lot of people.

So, what we—what we looked at recently at a conference—I think I can answer this question best in this way.

We looked—what we have been looking at recently is

[1254] the fact that Valley State now for the first time is in the position to impact the economic development of the area that they have never been before for several reasons.

One is that if we had looked at this area in 1950, there could be very little development as far as the private sector is concerned because there was very little formal education.

Secondly, as far as the interstructure is concerned, with help from the Federal Government and a number of other agencies in the 70's, we have a – we have good waste water, the kinds of facilities to have good water.

Recently, the legislators passed a bill to improve our highways.

So, what we are saying is that the only thing that is left now is the development of a technical labor pool.

In the past, we have not had the opportunity to impact the technical labor pool in the Delta, primarily because the roads that we have had, but for the future, we feel in working with Delta State and Alcorn State University, another regional area that serves a number of young people in their area, that we can impact economic development and the general [1255] quality of life in the area.

Primarily, by training young people and adults, number one, in basic literacy, and that is very crucial thing. Young people are dropping out of school much faster than they are graduating.

Number two, in the area of technical education. The most important thing that I saw that the Commission in the South recommended for the development in an area of what they called a technical labor pool.

Also, the general qualities of life. Well, we are able to do that because Mississippi Valley state has been working on the question of the quality of life since its very beginning.

As a matter of fact, that was our primary area. So we are talking about how do you solve problems such as teenage pregnancy, which has been exploded in the Delta now. How do you solve problems dealing with rampant crime?

If you look at the problems that we have had, prior to 1985, we have programs that can impact the general quality of life, and we have been able to do that very well.

If we can institute programs of technical education, where we train young people and older people in conflicts, problem solving abilities and also areas of computer literacy and other areas of technology, then we would ahve a very important role to play in the Delta.

Presently, that has been hampered because of the fact [1256] that the Board of Trustees for some reason did not see fit to allow us to return to the roiginal role, as far as our programs were concerned, even though a number of us have been talking about how we could do this without even additional money.

* * * * *

[1262] Q. Dr. Young, let me ask you this, then. During the period of your investigation, and you have testified as to ACT, have you made any study to come up with some correlation between ACT at Valley State and the ability of a student to graduate with achievement?

A. Yes, Dr. Boyer, President Boyer, was proposing two years ago to increase the ACT by the state from, I think at that [1263] time was from 10 to 15.

He circulated this proposal to the faculty and asked me to comment on it.

* * * * *

Q. Okay.

A. But it—what we decided to do was to—there were

five of us – five faculty persons who formed the group and requested of the Registrar to allow us to look at GPA, the [1264] grade point average, of students and correlate that with the ACT.

Now, the ACT that the students made when they entered Valley State. What we found out was that if you took – if you take a look at the grade point average of the students, and if you look at the ACT of the students, there was no correlation whatever of those two.

In other words, if you – if you were trying to make a policy where you would decide who could enter a university based upon a sole criteria as – such as ACT, based on the fact that the ACT was a good predictor of achievement, then you would find that Valley cannot sustain – that it has almost no relevance whatsoever.

We looked at other factors that come to be important, but we were not able to substantiate it because of the fact that they were sort of subjective things and very hard to measure.

As far as Valley State is concerned, and looking at that data, we – we wrote that report to the president and showed him that there was no correlation whatever between the ACT and the GPA, and if he sought to increase the ACT, he would drastically decrease enrollment, and there was just no cause for his argument about raising the ACT.

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[1298] **PROCEEDINGS**

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CROSS-EXAMINATION
BY MR. GOODMAN:

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[1303] BY MR. GOODMAN:

[1303] Q. As you understand it, did Dr. Boyer recommend to the Board of Trustees of the State Institutions of Higher Learning that it be increased from 10 to 13 at the university?

A. You mean—

Q. The ACT.

A. Resulting in the ACT that we have now?

Q. Yes.

A. I don't think so.

Q. You don't think so?

A. No.

Q. What position did you take on it?

A. Well, I did not take any position. I will tell you what happened with me with the ACT.

Like I said, I had told Dr. Boyer, the faculty, student body—I have been in so many positions at Valley, I was once the SGA sponsor for three years, and it was very clear. I had written documents, papers on how I felt about the ACT.

I had done various kinds of research, reviewed the Court [1304] dockets on the issue, and I had put in my writing my position on the ACT, so I just took it out of my mind.

To me it is not an issue no more, so how it came about this last time, I didn't really pay special attention to it. You know, especially with my own programs. Since like I said, in continuing education, my students are the nontraditional students, and there is a means by which you enter the university, if you are twenty-one or above, you can enter the university without going through the ACT route.

So, it has not been of a paramount issue to me, really. So, I'm really—I'm really not that sure about it.

Q. Do you recall the question?

[1312] Q. Okay.

* * * * *

Q. Do you remember when your deposition was taken in this case?

A. Yes, I remember it.

Q. Was it taken in Jackson?

A. Yes, that is right.

Q. Was it taken November the 13th, 1986?

A. That's correct.

Q. Okay.

A. I think so.

Q. And did Mr. Chambliss ask the questions at that deposition?

[1313] A. Right, right.

Q. I am referring to page 21. I want to refer you here, please, sir,beginning page 21, line 20, and ask you if I am reading from your answer correctly?

* * * * *

Q. "We met with the Faculty Senate, and Dr. Boyer denied that he had agreed with the Alumni Association that he would offer 31 degrees"?

A. Right, right.

Q. "I forthrightly called him a liar in the meeting"?

A. Yes.

Q. "And told him that I was not prepared to represent the Alumni Association in any kind of agreement, if he denied that he was to offer 31 degrees"?

A. Right.

Q. And then your lawyer said, "Well, Dr. Young," and you went on.

You said, "Let me just finish about this. This meeting -- at this meeting, Dr. Boyer then said that he had met with us and agreed to 31 degrees. I spoke to the Faculty Senate about our concern, and before they reached a decision, they [1314] put me out of the meeting. And they met with Dr. Boya"?

A. Right.

Q. "And the next thing I heard, they had tactically agreed with him to support his plan of 17 degrees."

Was that your testimony?

A. Yes, right.

Q. All right.

A. That is true.

* * * * *

THE WITNESS: Let me correct that. I can easily explain that.

Now, the first thing is, if you read that deposition very carefully, you can see there were a lot of spots of 'er and 'era this and 'era that, this sort of thing.

And, you know, since Dr. Boyer has been at Valley State, he has tried to demote me four times, okay.

* * * * *

[1315] Q. All right. Dr. Young, during the spring of 1985, a number of people made a number of different proposals about how many programs there ought to be at Mississippi Valley, is that true?

There was a recommendation of one degree program made, isn't that true?

A. That's true.

Q. There was a recommendation of nine degree programs that was made, isn't that true?

A. That was Dr. Boyer's recommendation, yes.

Q. I thought it was Dr. Sharp, but you testified yesterday that somebody recommended nine programs at one time?

A. That was Dr. Boyer.

[1316] Q. All right. There was a recommendation of 31 degree programs, that was from you, wasn't it?

A. It was from our committee, right. It was the alumna—it was the Political Action Committee, the alumna,

and approved by the Executive Committee Alumna Association.

Q. And there was a recommendation of 17 degree programs from the President of the University to the Board of Trustees, isn't that true?

A. Yes. Well—yes. That's true.

* * * * *

[1377] **TESTIMONY OF GLORIA ROBINSON**

Q. Where were you employed before you began working at Lincoln University?

A. Before Lincoln I was here at the University of Mississippi.

Q. In what position?

A. My position was assistant director of student activities for minority affairs.

Q. What time frame was that?

A. From september of 1981 to June of 1982.

[1380] * * * * *

Q. Did you speak with black students on the campus at the University of Mississippi?

A. Yes, I did.

Q. Individually?

A. Individually and in groups.

Q. How frequently?

A. Every day. It was part of my job.

Q. And did you formulate any views of your own about the concerns about black students on the campus?

A. Yes.

Q. What were your views?

A. Well, just in visiting informally and in their organized groups, there were several major problems, one, of course, dealt with just the whole issue of organizing and developing their own groups, parlimentary procedures and

just how to get things done through the university system.

The second problem dealt with academics, where they were very concerned about, you know, their grades. Many of these students came to the University of Mississippi as A and B students, and for the first time they were getting C's and [1381] D's. That affected my position in terms of my work with them in student activities because many of them did not feel they had the time to devote to activities because they were entrenched in academic concerns.

And I think the third major concern was isolation, not only from, you know, the faculty and the student population but isolation in this environment.

Q. You referred to isolation. Did you come to understand that in more detail than you just expressed it?

A. Yes.

Q. Please explain.

A. When I speak of isolation, certainly at that time in 1981 there were about six hundred and fifty black students out of the about ten thousand and there were few black faculty so they felt isolated not only from—for being in a predominantly white environment but isolated from the faculty because they didn't understand, you know—they didn't have many relationships with faculty other than just the classroom environment. Because of their course load they were isolated from each other because they were scattered all over the campus in terms of departments. They were not concentrated in any particular area.

Q. Did you relate that to relationships with the faculty or to the academic concerns?

A. Well, certainly related to academics in that for some [1382] of the students provided—was a barrier to them studying, it was a barrier to them participating in various activities because there were—they were so few in number and did not feel involved in the university mainstream activities.

Q. Were there concerns about—expressed about grading or testing?

A. Well, like I said, many of the students came here as A and B students and they would study for what they thought would be required for the course and then they were graded—the test would be on areas that maybe they didn't study in. There was just a misunderstanding on their part in terms of how to interact at the University with their grading system and their testing system.

Q. Did you discuss the concern about academic issues with Dr. Jones, the director of the office of student activities?

A. Well, he was my immediate supervisor—

Q. Did you discuss it with him?

A. Yes.

Q. Approximately when?

A. Well, I came in September and it took me until about December to formulate some strategies for working with minority students, so I would say about December.

Q. Where did the discussion take place?

A. In his office.

Q. Was anyone else present?

[1384] A. No, just he and I.

Q. And what was said at that time?

A. Well, basically, I expressed my concern about the students not being able to participate in student activities because of their overwhelming concern about academic performance, grading systems and relationships with faculty. And I wanted his permission to establish some kind of liasion between student activities and academic departments.

Q. Did you express any purpose for that liaison?

A. Well, certainly, I felt it would help us retain black students and help us identify the problems that our

students were having with metriculation at the University of Mississippi.

Q. Did he respond?

A. Yes, he did.

Q. What was his response?

A. Basically he said academics was not our business, it was not our job.

Q. Did you communicate your concern to Dr. Beasley, the vice president for student affairs?

A. Yes, sir.

Q. Orally or in writing?

A. First, orally and then written.

Q. In terms of the oral communication when did that occur?

A. I would say around January of 1982.

Q. What was the occasion for that?

[1385] A. Well, he was hired the beginning of the year as the vice president for—I think Dean Moak retired and so they brought him in as a vice president, and as part of his orientation to our area we sat down and talked about what my job responsibilities were and what some of my concerns were.

Q. Who was present at that time?

A. Who was president?

Q. Present.

A. Oh, just Dr. Beasley and myself.

Q. What did you—what did you say? What was the discussion in terms of the concern about academic issues?

A. Well, my position as assistant director for student activities for minority affairs was perceived by me and the students as being a very important position and I felt that it needed to be—it needed to hve autonomy, that that position needed to have its own budget and that it needed to report directly to the vice president so it would have the

status and authority that it needed to assist black students. And so I talked to him about moving—retitling the position so that it fit under his office rather than just student activities, which I felt had a connotation of fun and games, and, you know, sororities, fraternities, that kind of thing. I wanted it to have more prestige, not only in the university structure but also in the eyes of the hierarchy of the university so that we would have more authority and more status [1386] with the academic community as well.

Q. Did you say anything about what the title of your position would be?

A. I don't remember the title. It had something to do with director of student affairs, minority affairs.

Q. Did he respond?

A. Yes.

Q. What was his response?

A. He had just started working at the University so he felt he needed more time to evaluate the situation and he would get back to me.

Q. Now, you said you also communicated with him in writing, is that right?

A. Yes.

Q. And when did that occur?

A. Around April of 1982.

Q. And what did you communicate?

A. Well, then I put what I though was a modest plan for developing the office of minority affairs and I sent it to him in writing.

Q. And what, if any, response did you receive?

A. I really received no response to that request.

Q. Did you receive a written response?

A. No.

Q. Oral response?

[1387] A. No.

* * * * *

[1389] Q. When you just referred to the local newspaper, you meant the campus newspaper?

A. The "Daily Mississippian?

Q. Did there come a time when an issue of that newspaper was of particular concern to you?

A. Well, often.

Q. Yes or no?

A. Yes. Yes.

Q. When?

A. Well, often there were articles that were, you know, derogatory to black students, but I think the major issue that stands in my mind is the April Fools edition in 1982, April of 1982.

* * * * *

[1390] Q. Without testifying about the content of these articles, [1391] did you have a reaction to them as a black person in terms of your feelings?

A. Certainly, yes. Yes.

Q. What was your reaction?

MR. GOODMAN: To which we object. It's calling for a conclusion.

THE COURT: Overruled.

THE WITNESS:

A. My basic reaction was that "The Mississippian" was showing their insensitivity to black students and their needs. My basic reaction was that they were making fun of our not having representation on the cheerleader squad by showing that the least capable persons that would be eligible, the least eligible black students.

Q. You worked at the University of Mississippi less than a year?

A. Yes.

Q. Why did you leave?

A. I left out of frustration, stress, I left out of lack – what I call lack of support for the position that I had at the university.

Q. Did it relate to your view as to your power to do things?

A. In part, yes.

Q. Please explain.

A. Well, I had written Dr. Beasley in April, asking for [1392] a redefinition of the office of minority affairs. I asked that it be taken out of the student activities office, made a seperate office within student affairs that had liaison with academic departments. I asked for a separate budget for the office of minority affairs, to change the title of the position and basically asked him to give me the position so that I could effect some positive change in terms of not only activities but academic areas of the University.

After I did not hear from them during April, I submitted my resignation basically among the students. I saw most of the students that came to the University and my position was one where the students felt they could come to me to get things done for them and I certainly had no such authority. I had no power. I had no money to deal with those things.

* * * * *

[1393] CROSS EXAMINATION

BY MR. GOODMAN:

Q. I think your cheerleading objections caused come changes at the University, did they not?

A. Well, not my objections but the students' objection, yes.

Q. Did the cheerleading process become one of selec-

tion aFter the year that you describe?

A. I'm not sure. I left before—it was still an election process when I was here in 1982.

Q. Well, there have certainly been black cheerleaders at the University of Mississippi in the last several years, have there not?

A. Yes, sir, I think so.

* * * * *

[1394] Q. Well, tell me what your duties were to be when you came to the university.

A. My duties were to work with students activities. It was not just for minority affairs, but my primary responsibility was to work with student activities related to black students, to work with developing policy procedures for minority involvement to University activities, and to counsel students, counsel minority students.

Q. Was part of your job description to conduct work shops for minority students?

A. Yes, sir.

* * * * *

Q. Qualifications for membership in honorary groups, was that part of it?

A. Fraternities and sororities, yes, sir.

Q. Did you serve on the Chancellor's standing committee for black student concerns?

A. Yes, sir, I did.

Q. And you understood that when you went, did you not?

A. Well, I think it was organized after I got there, but [1395] I was asked to serve on it.

Q. During 1981-1982 when you were at the university was there a Miss Ebony Pageant?

A. Yes.

Q. Was that a participation for black students?

A. Yes, it was a pageant for black students.

Q. Was there a Gospel Extravaganza?

A. Yes, sir.

Q. And did black students have anything to do with that?

A. Yes, sir.

Q. Was there a forum particularly for the attraction of black students, that you recall?

A. Yes. We tried to develop as many as we could with budget limitations.

Q. Well, specifically what do you recall that you did develop that year?

A. One that stands out in my mind, we had a forum on black—well, male-female relationships. We had a successful transition program where we worked with white and black students to help black students get—to work themselves into the university more successfully. We had workshops on study skills as well as organizational development within the Panhellenic Council, which was the fraternity and sorority organizatioln.

Q. During that year was there a program celebrating the [1396] birthday of Dr. Martin Luther King, Jr.?

A. Yes, sir.

* * * * *

[1398] **TESTIMONY OF MARSHA RAY WILLIAMS**

-THE WITNESS: Marsha Ray Williams, WILLIAMS.

BY MR. PRESSMAN:

Q. What is your address, please.

A. My address is the Department of Physics, Mathematics and Computer Science, 3500 Merritt Boulevard, Tennessee State University, Nashville, Tennessee, 37209-1561.

Q. What is your date of birth, please.

A. August 4th, 1948.

Q. Could you state your race for the record, please?

A. Black.

Q. And you indicated that your employment is at Tennessee State University?

A. Yes, it is.

Q. And your position is what?

A. Associate professor of computer science.

Q. Where did you attend high school?

A. Booker T. Washington High School, Memphis, Tennessee.

Q. What was the size of the graduating class when you were a senior?

A. Four hundred.

Q. What was your class rank?

A. Eighth.

[1399] Q. Where did you receive your undergraduate degree?

A. Beloit College, Beloit Wisconsin.

Q. What was the date and what degree and what was your major?

A. 1969. The degree was in physics.

Q. Do you hold a Master's degree?

A. Yes, I do.

Q. One or more?

A. Yes.

Q. As to the first one you received, what was the school and subject and the date?

A. University of Michigan, physics, 1971.

Q. Okay. And in terms of your second Master's degree?

A. 1976, systems and information science, Vanderbilt University.

Q. And do you hold a doctorate?

A. Yes, I do.

Q. Could you provide information about that?

A. The major is computer science from Vanderbilt University, 1962.

Q. Could you briefly outline your employment history starting in 1972?

A. From 1972 to 1974 I was a physics instructor and systems analyst at Memphis State University. In 1974 I returned to graduate school at Vanderbilt University in computer science. During that tenure I had a scholarship for tuition but worked [1400] part-time at the computer assistance instruction program at Fisk University.

I was at Vanderbilt until 1978, when I got—just after I got the Master's. I went to work for IBM as an associate systems engineer in Nashville, Tennessee from 1978 to 1980. In 1980 I returned to Vanderbilt to finish my doctorate in 1982 and worked during that time as an assistant to the dean of the graduate school on fellowships for minority students and as a teaching assistant in the department of computer science.

In 1982 I was working part-time at Tennessee State University in computer science, finished my degree and I stayed a year on faculty as associate professor of computer science at Tennessee State. From 1982 to 1983 I worked at Tennessee State.

In 1983 I came to the University of Mississippi as associate professor of computer science until 1984. In 1984 I returned to Nashville and assumed my position of associate professor of computer science where I am now.

* * * * *

[1401] Q. Were there any other terms?

A. That there would be an equipment grant related to my research being done at the University of Mississippi and a summer research grant in the summer of 1984 for my research at the University of Mississippi.

* * * * *

[1402] Q. Now, as the school year of 1983-84 progressed, did you receive notice of the details of your summer research position?

[1403] A. No, I did not.

Q. Did you make inquiry?

A. Yes, I did.

Q. Once or more than once?

A. More than once.

Q. Orally or in writing?

A. Orally.

Q. When was approximately the first time that you inquired?

A. In April of 1984.

Q. And whom did you contact?

A. The department chairperson, Dr. Raney Little.

Q. In person?

A. In person.

Q. Was anyone else present?

A. Typically the inquiries happen in the department office and there is usally a secretary there.

Q. In terms of the first contact, what was said?

A. I noted to him that it was getting close to the summer, that I had been promised a research grant for the summer, which he knew of, but I received no paperwork and no notification than that was in place, and I was on a nine-month contract and so that was my support for the summer and also my first opportunity to do full research for the summer, and I inquired as to why not and what needed to be done to get it.

Q. Did he reply?

[1404] A. He didn't know why that had not gone through, that he would check into it.

Q. Were your later inquiries also directed to Dr. Little?

A. Yes, they were.

Q. What did you say?

A. I continually asked, what's the status of the summer research grant. The office that was to handle that, to my understanding, ws the graduate dean, Dr. Joseph Sam. Eventually, Dr. Little told me that he learned that there was an application process to receive that grant, which I didn't know of, that should have been done in the fall, and apparently that was the point of contention of why it had not been given to me, although I had not been informed.

Q. You were referring to the fall of 1983?

A. Yes.

Q. Did you make a response when he referred to the application process?

A. Yes, I did, that I knew nothing of it, the process was never informed of it (sic), and my feeling was since it was promised as part of my coming to the university, that it was still due to me as a commitment from the University for the summer.

Q. Did he reply?

A. He checked further into it and eventually told me I needed to go – how did it happen? He kept checking on it, but there [1405] was never any conculsion as to whether or not I would be given the research grant for the summer.

Q. Did you complete the application?

A. Yes. After I finally realized it was getting into the summer and I still had no commitment for that research grant, I decided to write a letter to the vice chancellor of academic affairs noting the commitment in the beginning of my taking the offer to come to the University, to give me the research grant for the summer, and my feeling that it should be given to me even though I did not apply, which I did not know I had to do.

Q. Did there come a point when you inquired of another University of Mississippi official about the status of your research grant?

A. When I wrote the letter to Dr. Wagner.

Q. Did there come a time when you inquired of another official, yes or no?

A. Yes.

Q. What official?

A. Dr. Peter Wagner.

Q. What was his title?

A. Vice chancellor of academic affairs.

Q. How did you communicate to him?

A. In writing.

Q. What was the substance of your letter?

[1406] A. That that was a part of—the research grant for the summer was a part of the offer in my—that I accented to come to the University, that the application process was not made known to me, and that, as a result of that being a part of the offer, the University still should honor that commitment. It was not a large amount of money. I could not imagine a university of that size and reputation not honoring that commitment.

Q. What happened after that?

A. I was told to fill out the application form that should have been done before that I did not know about and the grant was made.

* * * * *

[1411] Q. Did you resign from the University?

A. Yes.

Q. When?

A. In August of 1984.

* * * * *

Q. Could you explain why you left?

A. Yes. After my difficulties in securing the summer research grant, and the research was a major reason why I came to the University of Mississippi from Tennessee State University, I began very early in the summer to start to question with my department chairperson, Dr. Raney Little, what my role would be in the coming year. And I still had [1412] very strong feelings, as he knew when he came, to do research, to keep myslef current and able to interplay between students and corporations and future research graduate programs for our students, and without that research and my continuing to publish and travel, that would not be possible. In my discussions with the department chairperson, the response was that as much had been done as could be done and if I wanted to pursue that possibility, particularly of research and also the continuing support activities that I did with black students and participate in the black faculty and staff organization I would need to pursue those on my own, with the dean of the engineering school and vice chancellor for academic affairs.

Based upon that, I did not see the kind of environment—supportive, positive, environment—in which I would do not only the things I had already started doing, but particularly get and keep my research going, which is the life blood of scientists.

Q. Did you observe a difference between what Dr. Little offered to do in terms of his own conduct at that time and at earlier times?

A. Yes.

Q. Yes or no?

A. Yes.

Q. What difference?

[1413] A. There was a stark change in terms of in the previous year when I was offered and came to the Univer-

sity. He and I, and I assume others, were involved in setting up the kind of environment and the support to do the kinds of things I did that year. When I sought to pursue that for the coming year, I was told to do that on my own.

Q. Did you see the other persons on your own?

A. No, I did not.

Q. Why not?

A. On the day we had a conversation, Dr. Raney Little, the dapartment chairperson, concerning my future and the kind of work I wanted to do from when I came to the University of Mississippi and beng told to do it on my own, I concluded that evern though I might do it on my own, I needed that supportive environment—everybody does—not only students, but faculty as well, to do those things and do them successfully within the framework of the department, and I concluded that that was no longer possible, and rather than stay in that type of environment, I chose to leave and I called him that night and told him so.

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[1414] **TESTIMONY OF DR. THOMAS ERIC GREEN**

Q. You stated your name. Dr. Green, what is your age?

A. I'm forty-two years old.

Q. What is your race?

[1415] A. Black.

Q. Could you relate to us your educational background?

A. Well, I attended the public school system in Louisville,-Kentucky. Let's see, elementary and junior high schools were black, all black, and I went to a recently integrated high school of thirty-five hundred students with sixty-seven black students there. That was a pre-college, pre-engineering sort of background. Went to undergraduate school at Cole College in Cedar Rapids, Iowa,

a predominantly white institution with a relatively small number of black students. When I arrived, I think there were eleven out of a little over a thousand students there. Did my Master's and my PhD at the University of Colorado, Boulder, an institution of about twenty-four thousand. At that time, it was probably two or three hundred black students, maybe twenty or thirty black graduate students.

Q. What area did you obtain your Master's in?

A. My Master's and PhD was in history. I also did a post-doctoral, a National Endowment for the Humanities Fellowship at Kent State University in history.

Q. Could you relate to us your employment history. Where was your first job and what position did you hold?

A. I actually began teaching as a teaching assistant at the University of Colorado while was working on the PhD. I left there after completion of my Master's and all the course work for the PhD. Went to the University of Louisville where [1416] I stayed for approximately five years. There I was the chairman of the Pan African Studies Program and also a member of the history department, teaching in both programs and adminsitering the Pan African Studies Program. I guess that would equate to black studies anywhere else.

Q. Okay.

A. From the University of Louisville I went back to the University of Colorado, wrote the dissertation for the PhD, and from there was contacted by the University of Mississippi, came here and worked for a year. From the University of Mississippi, I went to the University of Nebraska, worked there for two years in a similar field and I'm now at the Grambling State University in Louisiana. I've been there for three years.

* * * * *

[1417] Q. What year did you come to Ole Miss and what month?

A. I came in August of 1981. And that was approximately a month and a half, two months after I talked with Cleveland Donald. I also talked with the chairman of the history department because it was a joint arrangement between black studies and history at the time.

Q. When did you leave Ole Miss?

A. I left June 30th, 1982.

Q. What was the nature of the appointment?

A. I was acting chairperson of black studies and visiting assistnat professor in the history department.

* * * * *

[1418] Q. Did you present any new course outlines to this particular committee in the area of black studies?

A. I did during the fall of 1982 present for a special topic a course that was called Sex and Racism in American, and that course I did offer in the spring of—no, it was the fall of 1981 that I presented the course to the committee so I offered it in the spring of 1982.

[1419] Q. How was that course received by your colleagues and by the University administration?

A. Well, on the surface of it I thought that it was just like any other course that I had seen presented to the committee in previous meetings, but I received a call from the fellow who had been my initial cntact with the University of Mississippi shortly after the course was approved by the curriculum committee and he told me in no uncertain terms that I was doing something that I shouldn't by offering a course on sex and racism, and he, in effect, told me that if I did not withdarw the course or if I didn't decline to teach the course, that there would be consequences.

I told him in no uncertain terms that I was going to run the program because I was in Oxford and he was in Washington and I didn't intend to be intimidated by him.

* * * * *

[1425] Q. You mentioned that you were—that there was some [1426] efforts to commemorate outstanding blacks. Who were the people?

A. Well, we did in November, I believe, a commemoration or a memorial for Roy Wilkins who had recently passed away. Roy Wilkins, I think, was head of the NAACP. He passed away. We did in the Southern Culture Institute a commemoration one afternoon and basically it was a ceremony that was participated in by the black population. There were some—I remember one to two administrators being thee and some people from the Southern Culture Institute there in the audience as we went through this process. The—it should not have been a controversial thing, but it seemed to me that—the thing that sticks in my mind is that the air was a little bit thick as the ceremony ended because of the civil rights fellow having been memorialized there, I suppose, or eulogized there. There was a prayer at the end of it by one of the faculty members that seemed to kind of have broken the ice after all of these speeches were made and so on.

After that, we had a talk with some of the people on campus about the fact that 1982 would be the 20th anniversary of the James Meredith activities or integration of the University of Mississippi. We talked with a number of administrators, a number of department chairmen, faculty members and so on and made a couple of efforts to set up a committee which would try to address the subject positively [1427] as opposed to being the subject of media scrutiny without any kind of preparation on the inside of the University.

Q. What was the response to your efforts in this regard?

A. Well, I was told by some people that as long as I didn't mention James Meredith's name I would probably get some cooperation, but that if I mentioned James meredith or I tried to bring James Meredith here to campus that it would be negatively received and I probably would not get any support at all from administration or from faculty members.

* * * * *

MR. OSBORNE:

Q. These people that you talked to about your efforts to commemorate Meredith's admission to Old Miss, were they faculty members?

A. One faculty member in particular, I believe her name was hawks, told me exactly what I just stated, that people would not be involved or not cooperate at all if James Meredith was involved in this at all. If we did something that had to do with commemorating the integration of the institution, I might get some help, but—I believe Dr. [1428] hawks is her name—said that people were still very angry about what James Meredith had done to the University.

* * * * *

Q. Did you receive any cooperation from fellow faculty members in your efforts to commemorate Meredith's admission to Old Miss?

A. During the first two to three month, little or no cooperation. By the spring of 1982, Dr. Lucius Williams and myself began to look to corporations and foundations for support and I believe it was after we received a ten thousand dollar grant from Rockefeller that we began to get some cooperation from the administration.

But at that point, the cooperation was based on a commemoration of integration of the University as opposed to James Meredith having been involved.

Q. Were you involved in any efforts to have department heads offer black studies courses in their particular departments?

A. When I came to the University one of the things that I attempted to do was to meet with the department heads outside the curriculum committee. I set up individual meetings with every department head in the college of liberal arts and [1429] on those occasions I talked with them about cooperative efforts to list courses that were germane to black studies that were also, for example, relevant in psychology or relevant in political science and so on. I also talked with them about—or about their plans for adding blacks to the staff or people to the staff, in general, who might be able to teach such courses.

Q. What were the response? What was the response?

A. One or two of the chairpeople were encouraging, but, for the most part, there was polite to negative response.

Q. Were you successful in getting any of the other department heads to offer black studies courses in their particular departments?

A. None in addition to those that were peripherally already on their books and peripherally associated with black studies.

Q. Did you feel it was necessary to have the support of the other department heads in order to make black studies successful at Old Miss?

A. Well, the basic thing was that black studies was one person while I was here and there was no way that one person could function without working one's fingers to the bone and teaching everything that they offered on the books, which was impossible. It was essential to have people who could handle the curriculum in the departments that were associated like [1430] political science or history

or English or psychology, and those people just were not here.

While I was here I taught history courses as well as black studies courses, each of those two terms, in an effort to try to offer as much as possible, but there was just so much I could do and still try to administer the program. So, yes, it was as I saw it, essential to have other departments cooperate to make black studies a success.

* * * * *

[1431] Q. Why did you leave the University of Mississippi?

A. I saw a lot of things here that did not sit well with me. I would like to have stayed because I saw a lot of potential. There was a fantastic student population, white and black student population. Some of the things that we were [1432] able to do here, Saturday activities and so on with students, I have not seen happen at other universities, so I was interested in staying here actually, but as the academic year moved along though there were some intimations that a second contract was going to be offered to me other than a visiting contract, no offers were made. I finally made the decision to go on and interview at other places and to look at what other options were available to me and held off until the end of May, I believe, before I accepted a job at the University of Nebraska, Omaha.

Shortly, thereafter, I was called in and offered a non-academic position at about seven thousand dollars higher than my salary was in the academic arena, but that was after I had already signed a contract and both the executive vice president and the fellow who offered me this position here at the University of Mississippi, which was the vice president for student affairs, knew I had already signed a contract with another university, and neither my integrity nor the legal system would allow me to void the contract and stay at the University of Mississippi.

Q. What month were you offered this contract?

A. I'm almost positive it was the middle of June. May have been June 15 exactly because it was only two weeks before my—the contract I was on was scheduled to run out, which would have been June 30th. It was right around the middle of June [1433] when I was made the offer.

Q. When are contracts normally offered at Ole Miss?

A. Well, searches take place throughout the year. There may be reason to search any time of the year but if you're trying to find someone for an academic position generally you try to get that search over with before January or February. If you're trying to find someone for a non-academic position, while you might struggle and search for a while and do something late into the spring or early in the summer, you also try to get those positions solidified before the spring is out. I'd say at the latest April.

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Q. Did you, as part of your activities on campus, learn about the degree of participation by black students in campus activities?

A. As a result of being on the executive vice president's committee all of that information was—something was common

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[1438] Q. Why were they going to storm the newspaper?

A. Because they objected to some of the articles that were in there. A homecoming issue in particular which depicted some negative images of—

* * * * *

Q. Complete your answer to that question and I have one other.

A. Students objected to a homecoming issue which had whites [1439] in black face and articles which made comments that we construed as racial in overtones or racist in overtones.

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[1441] **CROSS EXAMINATION**

BY MR. RAY:

Q. Dr. Green, I'm William Ray. Did you mention you were involved in the efforts to employ a black faculty member in the department of political science?

A. I was asked to come to what amounted to part of his visit. In the process, you know, you bring a candidate to the campus and you have to meet with him, yes.

Q. Did you know that a member of the department wrote to Dr. Maurice Woodheart, the head of the American Political Science Association Committee of the Status of Blacks in the Profession to solicit names of potential black applications for the position?

A. What year was that?

Q. I believe it was 1981 or 1982. Which year were you there?

A. 1981-82. Fall of 1981. Is that what you're talking about?

Q. Yes, sir, I believe it is.

[1442] A. Go ahead.

Q. Were you aware of the letter?

A. No, I wasn't aware.

Q. Were you aware that other black educations were contacted concerning specific potential black candidates for that job?

A. The political science job?

Q. Yes, sir.

A. It seems to me that there was at least one more black person who was in the candidate pool, yes.

Q. And are you aware that at least three black applicants for the job applied as a result of these efforts specifically to find a black person to fill that position?

A. As I recall, there was at least one more person. I don't know what the number was but I remember meeting that person. There was one more person who was black.

* * * * *

[1443] Q. When you mentioned your belief that there weren't any elected students in student government had you forgotten that there was a least one black student on the campus senate throughout the time that you were at the University?

A. You have to raise the name in order to remember me to remember it.

Q. Was Johnny Parker on the senate when you were there?

A. I remember him.

Q. And he was an elected student government official?

A. Well, if I'm not mistaken, he was in the law school, though.

Q. He was on the campus senate, wasn't he?

A. That's separate from the undergrad. I'm not sure. He was in law school. He was not an undergrad student.

Q. .And, in fact, they had law students on that campus senate and he was one of them?

A. I remember Johnny Parker there.

Q. And do you recall also that throughout your time at Old Miss there was always at least one black student serving an appointed campus – I mean cabinet position in the stucent government? Do you recall that?

A. The president of the SGA then did have liaison with black students on a regular basis.

[1445] THE COURT: All right. You may state in the record what you expect he would have said.

MR. OSBORNE: The witness as asked if he was a victim of any activities—of any harassment activities related to his race when he was employed at the University of Mississippi and if the witness would have been allowed to respond to that question, he would have stated that when he first arrived on campus he was walking through campus one day and a truck load of white students passed and called him a "nigger," that racial slurs were written on the bulletin board in the Afro American Studies Department were often torn off, and that during the time he was employed on campus he received harassment phone calls at least once or twice each week and that these phone calls contained racial slurs.

THE COURT: All right. That offer of proof will be in the record. Of course, the ruling of the Court is that this case is against the State of Mississippi and not individuals who might discriminate on account of race. Hope you have a nice trip, Dr. Green. We'll be in recess until nine o'clock.

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[1495]

TESTIMONY OF CAROLYN WILLIAMS

THE WITNESS: My name is Carolyn Williams, WILLIAMS.

DIRECT EXAMINATION

MR. PRESSMAN:

Q. Would you state your address, please?

A. My address is Post Office Box 1940, Mississippi State, Mississippi 39762.

Q. Did you receive a subpoena to testify?

A. Yes, I did.

Q. Could you state your race for the record, please?

A. I am a black American.

Q. Could you state where you received your undergraduate college degree?

[1496] A. I received my undergraduate college degree at Mississippi Valley State University.

Q. In what year?

A. 1968.

Q. Do you hold a Master's degree?

A. I—yes, I do.

Q. Could you indicate where you received it and the year and the subject matter?

A. I received my Master's degree at Mississippi State University in 1973, in the area of secondary education with an emphasis in reading.

Q. Do you hold a doctorate?

A. Yes, I do.

Q. And where did you receive it and what year, and what was the subject matter?

A. I received my doctorate degree at Mississippi State University in 1975, in the area of secondary education with emphasis in educational psychology and reading.

Q. Would you please state your employment history after your graduation from Mississippi Valley State University?

A. After graduating from Mississippi Valley State University, I was first employed as an English teacher in the Aberdeen Public School System.

I taught there from the year 1968 until the year 1971. After which I became the Director of Reading Programs at Mary [1497] Holmes College in West Point, Mississippi, where I remained from West Point, Mississippi, where I remained from 1971 until 1973.

During the summer of 1973, I worked at Mississippi State University as a Co-Director of Reading Programs for Disadvantaged Freshmen.

From there, I worked and attended graduate school at Mississippi State from 1973 until 1975 as a teaching graduate assistant, and then as part-time instructor.

Between 1975 and 1978, I was employed as an assistant professor of curriculum and instruction at Mississippi State—that is curricula and instruction—from 1978 until 1972 (sic), I worked as an associate professor of curriculum and instruction at Mississippi State University in the department of curriculum and instruction.

Q. Did you say 1972 or 1982?

A. 1978 to 1982. From 1982 to present, I am a professor at Mississippi State University where I work in the department of curriculum and instruction.

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[1501] **TESTIMONY OF CAROLYN WILLIAMS**

Q. Have you applied for an administrative position at the university?

A. Yes, I have.

Q. Once or more than once?

A. More than once.

Q. And in what year was the first time?

A. I applied for the first administrative position at Mississippi State in 1984.

Q. What position was it?

A. The position was Director of Faculty Development Center.

Q. Was that for the university or for a particular college?

A. It was for the university.

Q. How did you apply?

A. Through written application, letter, references.

Q. Was there a process to interview applicants?

A. Yes.

Q. Were you interviewed?

A. No.

Q. Was someone selected for the position?

[1502] A. Yes.

Q. Do you know the race of the person who was selected?

A. Yes.

Q. What was the race?

A. White.

Q. Did you subsequently apply for another administrative position?

A. Yes.

Q. What year?

A. In 1984.

Q. What position was that?

A. Assistant to the Department Head of Curriculum and Instruction. I am sorry, Assistant Department Head, curriculum and Instruction.

Q. And in what college?

A. The college of education.

Q. How did you apply?

A. Through written application.

Q. Okay.

A. Follow through with letters of references.

Q. Were you interviewed?

A. Yes.

Q. Were you selected for that position?

A. No.

Q. Do you know the race of the person who was selected?

[1503] A. Yes.

Q. What was the race?

A. White.

Q. Have you applied for an internship in the president's office?

A. Yes.

Q. In what year?

A. In 1986.

Q. What is the purpose of that type of internship?

A. The purpose of the internship for which I applied was to help regular full-time faculty members with rank of professor associate professor, develop leadership and administrative skills.

Q. Okay.

A. By participating in an internship in his office and assisting with administrative duties and observing the various operations of the university from that perspective.

Q. And was there any reason that that kind of experience would be considered of value?

A. Yes.

Q. What reason?

A. It would provide the opportunity for a regular faculty person to get training and/or professional development within the area of administration.

Q. Have you ever applied for an internship in a vice president's office at the university?

[1504] A. Yes, I have.

Q. In what year?

A. In 1987.

Q. And what month?

A. February.

Q. How did you apply?

A. Through letter of application.

Q. Were you interviewed?

A. No.

Q. Do you know the race of the person who was selected?

A. Yes.

Q. What was the race?

A. White.

Q. Going back to the position of the internship in the president's office, were you interviewed for that position?

A. Yes.

Q. Were you selected?

A. No.

Q. Do you know the race of the person who was selected?

A. Yes.

Q. What was it?

A. White.

Q. Okay. Have you subsequently applied for an internship in the president's office?

A. Yes.

[1505] Q. And when was that?

A. I applied for the position for second internship position – it was effective in 1987 – March of 1987.

Q. How did you apply?

A. Through letter of application.

Q. Have you been interviewed?

A. Yes.

Q. When?

A. Monday of this week.

Q. All right. Have you learned the outcome of that process?

A. No. A decision has not been made on that internship.

* * * * *

[1508] Q. Doctor, I believe you said that you came to Mississippi State University from Mary Holmes.

By what medium did you come to Mississippi State?

[1509] A. I first attended Mississippi State as a

graduate student in 1968, working toward my master's as I taught.

Q. Isn't it a fact that you were recruited by Mississippi State?

A. Yes, sir, I was recruited into the department as an employee, but as a student, I applied and went on my own.

Q. Secondly, I believe you said that you were a full professor in the English Department?

A. Yes, sir.

Q. Are you tenured?

A. Yes, sir.

* * * * *

[1524] **TESTIMONY OF DR. WILLIAM S. FARMER**

Q. All right. Now, were you ever denied any promotions or did you ever apply for any positions that you did not get?

A. I have applied for several.

Q. What positions did you apply for?

A. I applied for associate dean in the college of education.

Q. And who received that position?

A. Dr. Forester.

Q. What is his race?

A. White.

Q. And what are his qualifications?

A. I know he has a doctorate. I think in vocational education, if I am not mistaken.

* * * * *

[1525] Q. Dr. Farmer, were there any other vacancies filled in your particular area since you have been employed at Mississippi State?

A. Yes.

Q. And can you give me the name of any of those positions?

A. No. The assistant dean for orientation.

[1526] Q. And when was that position filled?

A. About two years ago.

Q. Or who filled that position?

A. A white.

Q. Okay.

A. A white guy.

Q. What is his name?

A. Dr. Jim Abraham.

Q. Were you aware that the position was vacant before it was filled?

A. No, sir.

Q. When did you find out that there was a vacancy in the positon?

A. I did not find out until it was filled.

* * * * *

[1527] Q. Do you know anything about the work experience or the person who filled the position as assistant – well, was it assistant or associate?

A. Assistant dean.

Q. Assistant dean?

A. He worked as assistant director for college of schools relations, and he just recently got his doctorate from the University of Mississippi.

Q. And how long had he been employed by Mississippi State?

A. He was a student when I came there.

Q Okay.

A. Inthe division of student affairs, so he had been there since I had been there but not as a professional employee.

[1528] Q. Now, at the time this position became vacant, how long had you been employed at Mississippi State?

A. About eight years.

Q. Eight years. Do you know the—was that an administrative position?

A. Yes.

Q. Do you have experience in the area covered by that position?

A. I think I have a lot of experience in that area in terms of student services and in terms of Director of special student services and working as Director of the Developmental Services, working as coordinator of Outreach Programs and development and working as assistant to the director of admissions, dealing with students, just about everything that I—

All four areas that I have worked in while I have at Mississippi State has been in the area of student services, student assistance.

Q. Have you had any experience in a position as dean or assistant dean?

A. I had experience as an intern dean at the University of Colorado.

Q. When was this?

A. In 1973, as part of my study.

Q. I don't know if I have asked you, but what is the race of the person who received that assistant dean position?

A. White.

* * * * *

[1531] **TESTIMONY OF DR. WILLIAM McHENRY**

Q. Do you hold—are you a member of the black faculty organization on campus of Mississippi State?

A. Yes. I currently serve as the chair of the Council of

Ministry affairs.

Q. What is the purpose of that organization?

A. The organization attempts to promote the welfare of blacks on M.S.U.'s campus, that includes recruiting, hiring, promotions and such.

Q. Is that faculty and students?

A. Faculty and staff.

* * * * *

[1532] Q. In your position as president, have you had an occasion to talk to any of the administrators at Mississippi State about concerns of your particular organization?

A. Yes.

Q. And who have you talked to?

A. We met with the president of the university annually and express our concerns to him on the progress of blacks on campus.

Q Did you meet with the president of the Mississippi State in 1986?

A. Yes, we did.

Q. Did you express any concerns with him on the progress of blacks on campus?

[1533] A. Yes, we did.

Q. And what were the nature of these concerns?

A. The major concern was the lack of progress of blacks in moving into administrative positions. We were also concerned about the numbers of black in faculty positions on campus.

Q. Okay. Were these concerns presented to the president?

A Yes, they were.

* * * * *

Q. Okay. Did you get a response to the list that you

presented to the president?

A. Yes.

Q. And what was the response?

A. The president met with us and we addressed the issues. The main concern, the representation in administrative position.

[1534] He informed us that there are three black administrators in upper level positions.

Q. Do you know those three people?

A. Yes. Dr. Ernestine Madison, assistant to vice president, Joel Harold, who is director for financial aid – associate director for financial aid, and the last name is Swede. I am not sure of her first name, but associate director of the placement center.

* * * * *

[1537] Q. Could you state for the Court whether or not – I mean the number of black department heads at Mississippi State?

A. Zero.

Q. Are there any deans?

A. Zero.

Q. Black deans at Mississippi State?

A. Zero.

Q. What about assistant deans?

A. To the best of my knowledge, none.

Q. Associate deans?

A. No, sir.

Q. Have you had conferences with the president or any other administrators about the lack of – about the absence of blacks in these particular positions?

A. Yes.

Q. And how – how many times have you met with the president or brought this to his attention?

A. We meet annually with the president. We met with

Dr. McComb, and now we are meeting with the current president.

* * * * *

[1547] **TESTIMONY OF ERNESTINE MADISON**

Q. Is there something called an Administrative Counsel at Mississippi State University?

A. Yes.

[1548] Q. What is its role?

A. The administrative counsel advises the president and provide for programs, implementation of programs that would help to improve the University in general.

Q. Does it have any role regarding policies?

A. Yes, the development of policies.

Q. How many members does it have?

A. If I'm not mistaken, I believe we have ten.

Q. Is there an Executive Council?

A. Yes.

Q. Which body has ten members?

A. The Executive Council.

Q. Okay. How many does the administrative counsel have?

A. I'm sorry. It has thirty.

Q. How many black members are there?

A There are not any on either board.

Q Was there ever a black member?

A. We had one on the administrative counsel, Dr. Sabetha Jenkins Legget.

Q. She has left the University?

A. Yes.

Q. What is the role of the Executive Council?

A. The Executive Council is a small body made up of vice presidents and other persons that are in the administrative capacity. It's appointed by the president. And they are also [1549] to advise the president and help in

implementation of programs at the University.

Q. And it has ten members, you say?

A. Right.

Q. How many black members are there?

A. Not any.

Q. Is there an Academic Council?

A. Yes.

Q. What is its role?

A. Its role is to advise the president on academic matters, develop policies and also conduct the general business of the University related to academic affairs.

Q. How many members does it have?

A. We have twenty-six on that board.

Q. How many black members?

A. Not any.

Q. Is there a Graduate Council?

A. Yes, there is.

Q. What is the role of the Graduate Council?

A. The Graduate Council coordinates programs for the graduate school in general, implement programs and also take care of all administrative duties related to the graduate school and advises the deans and the vice president.

Q. How many members are there?

A. We have eighteen.

[1550] Q. And how many black members are there?

A. Not any.

* * * * *

[1628] **TESTIMONY OF DR. WILLIAM J. STEWART**

Q. Okay. You may testify as to the recruitment efforts from 19—during the period that you were over the College University division?

A. Now, on—at the implementation of the University College, the idea was to try and not only recruit a significant number of students with higher ACT scores but

also to try to increase the number of other race students.

In order to do that, I can testify to what happened firsthand when I had a responsibility in there.

You had the problem of the perception of quality of the programs and, of course, the number of programs that were available to students played major role in whether or not you were successful in recruiting other race student.

* * * * *

[1738] **TESTIMONY OF DR. SABETHA JENKINS-LEGGET**

Having been first duly sworn, was examined and testified as follows:

THE WITNESS: My name is Sabetha Jenkins Leggett, J E N K I N S, hyphen, L E G G E T

DIRECT EXAMINATION

BY MR. PRESSMAN:

Q. What is your address, please?

A. My address in 207 Bucktle Hall, University of Akron, Akron, Ohio.

Q. For the record, would you state your race, please?

A. Black.

Q. Where did you receive your elementary school education?

A I received my elementary school education in Hinds County Public Schools.

Q. In terms of secondary education?

A. Also in Hinds County Public Schools.

Q. Do you hold a degree from one of the historically black colleges in Mississippi?

A. Yes.

Q. What degree, what college and what year did you obtain it?

A. I hope a Bachelor's degree from Jackson State, 1960.

Q. What was your major?

A. I majored in English and French.

Q. Do you hold a degree from one of the two smaller historically white institutions in Mississippi?

A. Yes.

Q. What institution?

A. I hold a Master's in—a Master's in English Education from Delta State. I earned that degree in 1970.

[1740] Q. Do you hold a degree from one of the larger historically white institutions in Mississippi?

A. Yes.

Q. Yes or no?

A. Yes.

A. What institution?

Q. Mississippi State University.

A. What was your degree in and what year did you obtain it?

A. I received a Doctorate Degree in Educational Administration in 1978.

Q. Over what periods in years did you work on that degree at Mississippi State University?

A. From 1975 through 1978.

Q. Turning to your employment history, do you have experience at the high school level?

A. Yes.

Q. In what years did you work at the high school level?

A. I worked in the high schools in the State of Mississippi from 1960 to 1966.

Q. In one school system or more than one?

A. In various school systems, in Hinds County as well as in Coahoma with Clarksdale City Schools.

Q. Were you a teacher?

A. Yes.

[1741] Q. What did you teach?

A. I taught English and French.

Q. Do you have teaching experience at the junior college level?

A. Yes.

Q. And in what period did you teach at the junior college level?

A. I taught from 1967 through 1975 on the junior college level.

Q. At what junior college?

A. At Coahoma Junior College.

Q. What did you teach?

A. I taught English.

Q. Did you attain a supervisory position while you were at Coahoma Junior College?

A. The last three years I was department head, department head for the English department.

Q. Where were you employed after Coahoma Junior Colllege?

A. At Mississippi Education Services Center, which is at Mississippi State University.

Q. In what period were you employed there?

A. From 1975 through 1978.

Q. What was your position there?

A. I was a field staff specialist and a state Title IX contact person.

[1742] Q. Okay. To what does Title IX refer?

A. Title IX is a federal law that mandates the equal treatment of persons on the basis of sex.

Q. Were your responsibilities there defined geographically?

A. Yes.

Q. Please explain.

A. As the State Title IX Contact Person, I served the entire State of Mississippi in terms of the hundred and fifty-two school districts.

Q. What proportion—did you visit any of the school districts during the period you had that assignment?

A. Yes.

Q. What proportion of the school districts did you visit?

A. Eighty percent. A rough estimate, eighty percent.

Q. To what levels of education does Title IX apply?

A. Title IX applies to all levels from elementary to secondary and post-secondary.

Q. All right. Could you provide a few examples of issues that arise under Title IX?

A. The issue of equal pay for both men and women with comparable job assignments, the issue of equal educational opportunity for all students, particularly in the athletic or the sports programs, the issues of promotion in the administrative ranks. Those are a few of thosde issues covered by Title IX.

[1743] Q. Please describe the kind of activities in which you engaged in that position.

A. My primary task was to interpret for school districts the Title IX mandates and then to assist these school districts in complying with that mandate, also to assist them in drawing up or developing a plan of compliance to meet the requirements of Title IX.

Q. Did you have contact with particular persons in school districts? Yes or no?

A. Yes.

Q. What categories of persons would you have contact with?

A. The counselors, the classroom teachers, the principals, as well as the superintendents.

Q. Did you participate in any conferences as part of that assignment?

A. Yes.

Q What kind of conferences?

A. For personal development, my own development, I attended conference in Atlanta and Washington. For the benefit of the school districts I developed and implemented conferences on both the local, the regional and the state level.

Q. This is in Mississippi?

A. Yes.

Q. You said on the state level?

A. Yes.

[1744] Q. Who would attend a conference on the state level?

A. Superintendents, counselors, Title IX local persons, classroom teachers.

Q. From which school districts?

A. From all school districts, all one hundred and fifty-two school districts.

Q. And how many conferences of that nature did you participate in in that assignment?

A. I would say from three to five.

Q. What was your next employment after that position?

A. In what period was that?

A. From 1978 through 1979.

Q. What were your duties in that period?

A. I was the Affirmative Action Officer, Institutional Research Person and Title III Coordinator.

Q. To what did Title III refer?

A. Title III is the program, is a federally funded program for small developing institutions with emphasis on administrative development, faculty development and student services.

Q. What did you do with respect to that aspect of your work?

A. Developed proposals, implement the programs, monitor established budget, hire personnel, et cetera.

Q. What was the level of the funding—the level of funding of the Title III program when you came to Coahoma Junior [1745] College?

A. Approximately five hundred thousand.

Q. Did you prepare a proposal during that year?

A. Yes.

Q. What funding did you seek?

A. I sought to double that amount to include some other programs that we did not have at the time.

Q. You referred to affirmative action in terms of your work at Coahoma and the second time that you worked there. What did you do in that area?

A. As affirmative action officer, I established and wrote the plan of compliance for the junior college. That's about it.

Q. Where were you next employed?

A. At Mississippi State University.

Q. In what position?

A. As Assistant to the Vice President and Director of Minority Affairs.

Q. How long did you hold that position?

A. From 1979 through July 1st, 1985.

Q. Could you briefly describe your duties in that position?

A. As Director of Minority Affairs my primary duties were to enhance the presence of blacks on campus, to provide programs for students, faculty; to create a positive image in the black community of Mississippi State University, et cetera.

[1746] Q. Okay. With that departments at Mississippi State University did you have contact in that position?

A. Departments?

Q. Yes.

A. All departments.

Q. What was your next position in terms of your employment?

A. My next position was Assistant to the President at Mississippi State.

Q. In what period did you hold that position?

A. From July 1st, 1985, through July 1st, 1986.

Q. And who was the president in that period?

A. The president was President Donald Zacharias.

Q. Did you receive any awards while you were at Mississippi State University?

A. Yes.

Q. Could you list the awards you received?

A. I received particularly the larger or the more significant award, one came from Mississippi University for Women where I was cited as the most outstanding woman in higher education in the state.

Q. In what year was that?

A. That was 1980. Another award that I considered significant was from another sorority which cited my achievements as an educator. I was also a member of the Team of Starkville Leadership where twenty leaders were selected [1747] to develop programs to identify problems and develop programs to correct those problems for our city.

Some of the other awards, the President of the University's Commission on the Status of Women recognized me as the most outstanding administrative and professional woman on campus in 1966. 1985, I'm sorry.

The Student Association on campus recognized me as outstanding leder, and I hve forgotten the year.

And just as I left the University in 1986, the black students on campus recognized me as the most outstanding administrator on campus.

Q. Did you participate in any community activities in Starkville and elsewhere in Mississippi while you were working at Mississippi State University, did you?

A. Yes.

Q. Could you explain?

A. Besides being community and civic and church leader in terms of making the round of Women's Day speeches and speaking to civil organizations, I did conduct two workshops for women in leadership development.

I did, as I said earlier, belong to Starkville Leadership, the first class. I worked with the Arts Alliance group. I worked with United Way and other community groups such as United Way, et cetera.

Q. Okay. Now, returning to your position of assistant to [1748] the president, how did you first learn of that position?

A. As assistant to the president?

Q. Yes.

A. The president who was—the president informed me, who, at that time, was Dr. Jim McComas.

Q. When?

A. In December, 1984.

Q. Did he describe the position to you?

A. Yes.

Q. And how was the position described?

A. Dr. McComas related that the primary responsibilities for that position would be to work with at least two vice presidents serving as a substitute often for him, to learn the structure, especially the financial structure of the university. Experiences that I had not had a chance to get earlier in terms of the administration of an institution of higher education.

Q. Did he identify the vice presidents?

A. Yes.

Q. What vice presidents?

A. The Vice President for Academic Affairs and the Vice President for Business Affairs.

Q. Did he refer in his description to the Board of Trustees of Higher Learning? Did he?

A. Oh, yes.

[1749] Q. What did he say with regard to the Board of Trustees?

A. That I would – Dr. McComas said I would accompany him to meetings, to Board meetings as well as to Executive Council, Administrative Council meetings.

Q. Did you ever – did you haVe a purpose in accepting the position?

A. Yes.

Q. What was your purpose?

A. At that time I felt that I did need the administrative experience from a university-wide point of view and perspoective, and so for personal and professional and personal growth, I accepted the position.

Q. Did there come a time when President McComas announced his departure from the University.

A. Yes.

Q. When was that?

A. I believe it was March, 1985.

Q. Was that before – let me begin again. What had you done with respect to the new position before that time?

A. With the new position?

Q. Yes.

A. I – immediately I began to accompany him to meetings such as the Board of Trustees of Institutions of Higher Education. I accompanied him to meetings of the Executive [1750] Council and Administrative Council and was –

Q. Of what body? The Executive [1750] Council and the Administrative Council of what body?

A. At Mississippi State University.

Q. Okay.

A. I had begun to study very, very carefu'ly a report that he had given me to study to become familiar with and that was the Millet report. In terms of the new position, the kinds of tasks that one would be assigned as an assistant to the president.

Q. When did you commence working in the new position full-time?

A. July, 1985.

Q. Had President McComas left at that point?

A. Yes.

Q. When did President Zacharias arrive?

A. August, 1985.

Q. Did you have occasion to discuss the position with President Zacharias upon his arrival?

A. Yes.

Q. When was that?

A. Within two or three days of his arrival, his first arrival to the campus after he accepted the position of the president, we talked.

Q. Where did that occur?

[1751] A. In his office.

Q. Who was present?

A. No one, just the two of us.

Q. And what was said at that time?

A. I told Dr. Zacharias the kinds of things I had been doing and the kind of expectations I had for that job in terms of hte professional and personal growth that I expected to get.

Q. What tasks were you assigned during the course of your service with President Zacharias in that position?

A. My primary responsibility was correspondence, and that is receiving, opening and addressing correspondence that went to the president; doing research for

speeches to organizations such as the Rotary Club, the Mississippi Cattlemen's Association or whatever organization that he was addressing that day; prepareing the outline. As I said earlier, doing the research for those speeches. And, later, becoming the person who would make sure that all props, procedures, persons were in place for an engagement that he attended. For example, if he was going to attend a dinner that night, then I would precede him by five or ten minutes to make sure that everything was in place.

Q. For whom?

A. For the president, and often for the president and his wife.

Q. Could you state what percentage of your work was allotted [1752] to answering his correspondence?

A. Yes. At least sixty percent of my day's work was spent in answering and responding to his correspondence.

Q. Did he have you attend the Board of Trustees meetings with him?

A. No.

Q. Or have contact with those two vice presidents?

A. No.

Q. Did he ever revise your draft responses?

A. Yes.

Q. How often?

A. Two, not more than three, times in the entire year.

Q Did he ever comment on the quality of your work?

A Yes.

Q Once or more than once?

A. More than once.

Q. What did he say?

A. He was very pleased and often expressed it in a note to me. He was very pleased with my work.

THE COURT: Yes, sir.

MR. PRESSMAN: Yes, sir.

THE COURT: Okay.

MR. PRESSMAN: (Continuing)

[1753] Q. How did the actual content of your work for President Zacharias compare with what you had done in your previous assignment at Mississippi State University as Assistant to the Vice President for Minority Affairs?

A. As Assistant to the Vice President and Director of Minority Affairs, my responsibilities were to develop programs for, as I mentioned earlier, black students, especially retention of black students, to maintain a certain degree of visibility within the black community and within the entire University community, to work with department heads and other persons on campus to assure success for black students. And so there was much more substance to the kind of work that I did, whereas as Assistant to the President under Dr. Zacharias' administration, there was no challenge, no substance, and I classified the work as very menial tasks as compared to those that I previously had done.

Q. At the time you were elevated to the position of assistant by President McComas, was another MSU employee also made Assistant to the President?

A. Yes.

Q. What was the race of that person?

A. White.

Q. What position did that person have at the time the person was elevated?

A. That person was Assistant to the President and Associate [1754] to the Vice President for Business Affairs.

Q. Did the person retain that position along with being Assistant to the President?

A. Yes.

Q. Were you able to compare the assignments this person received from President Zacharias with the assignments you received?

A. Yes.

Q. How did they compare?

A. The assignments that that person received were much more challenging, had much more meaning and impact on policies, practices at the Universit6, whereas mine did not.

Q. Did there come a time when you discussed your dissatisfaction with President Zacharias?

A. Yes.

Q. Once or more than once?

A. More than once.

Q. When was the first time?

A. Approximately two months after he arrived.

Q. Where did that discussion take place?

A. I can't remember exactly where it took place.

Q. Could you state what was said?

A. At that point, it was—I said casually that I looked forward to assuming greater responsibilities on his administrative team.

[1755] Q. Did he reply?

A. Yes.

Q. What was his reply?

A I don't remember because it was not significant at that time. There was no sense of commitment.

Q. When did you subsequently communicate your dissatisfaction? At what point in time?

A. In June.

Q. Of what year?

A. June, 1986.

Q. Was there one discussion then or more than one?

A. More than one.

Q. How many discussion were there?

A. Three.

Q. Where did they take place?

A. In his office.

Q. Was anyone else present?

A. No.

Q. What day of the week was the first time?

A. On a Friday.

Q. And what was said at that time?

A. I said to President Zacharias that I was displeased with the responsibilities of doing correspondence and the other, what I called, menial tasks. And he said to me that to let him think about it and to let's talk again on Monday. [1756] In other words, he would think about it on the weekend and we would talk again that Monday.

Q. And did you meet with him on the following Monday?

A. Yes.

Q. What was said at that time?

A. Again, I addressed the issue, that I expected much more, much more challenging experiences from my work. And I can't remember his repiy because, again, there was nothing said that suggested that things would change.

Q. Did you have a later conversation with him relating to this issue?

A. Yes.

Q. And when was that?

A. That Wednesday.

Q. And what was said at that time?

A. I informed President Zacharias that I was leaving the university to accept another position.

Q. Was there anything else said?

A. Yes. He asked me where and what kind of position and I told him that I was going, where I was going.

Q. What did you say to him?

A. I told him that I was going to the University of Akron and that the position there would be Assistant to the President and Director of Minority Affairs. And he said to me that he thought that was a demotion and how much—how [1757] much of a demotion—in essence to—well, how much of a demotion it would be, that at Mississippi State University I had—I was not relegated to Director of Minority Affairs, I was his assistant and so I had the global freedom there at the University.

I also, though, said to him that at the University of Akron, I would have personnel. In other words, I would have a staff of nine persons, professionals to work with, and I would be on the president's cabinet. And he said to me concerning being on the president's cabinet at the University of Akron that that was not any different from my being a part of the Executive Council at Mississippi State University.

I disagreed with him because as a member of the president's cabinet at the University of Akron, I would have impact on policy practices, et cetera, whereas as at Mississippi State University my duties were relegated to that of taking notes for him.

Q. Did you vote at the Executive Council at the University?

A. At Mississippi State?

Q. At Mississippi State.

A. No, I had absolutely no voice on that council. My responsibility was to take notes for the president.

Q. Were you like the recording secretary?

A. Yes, I called myself a—a recording—a correspondence [1758] secretary, as well.

Q. On what day did you accept the position at the University of Akron?

A. I accepted that position that Wednesday.

Q. Did you regard that change as a demotion?

A. No.

Q. Why not?

A. Again, I felt that that position would offer me those opportunities that I had asked Mississippi State University to offer me in terms of professional growth. Again, to be able to manage my budget, to be able to work with personnel or personnel staff of that sixe, to be able to be a part of a cabinet where I could identify problems and translate those problems on the cabinet. In other words, to be a part of, you might call it, the "thank tank," the planning group, the administrative team certainly was not a demotion as notekeeper.

Q. How many black administrators were there at Mississippi State University in the period when you were assistant to President Zacharias?

A. In July—on July 1st, 1985, Dr. Ernestine Madison joined me, which would make a total of one—one other person besides me.

Q. Two in total?

A. When you include Dr. Madison and me, that was a total of two.

[1759] Q. Okay. What is the size of the budget that you direct at the University of Akron?

A. The current budget is two hundred and four thousand dollars.

Q. Does that include the personnel budget?

A. No.

MR. NOBLE: Your Honor, this is irrelevant. Objection.

THE COURT: What do you contend is the relevancy of this, Counsel?

MR. PRESSMAN: I think it shows the qualifications of the witness who was not retained at Mississippi State University.

THE COURT: You may proceed along that line. Without drawing any conclusion, you may answer the quetion. Two hundred and four thousand.

* * * * *

[1826] **TESTIMONY OF DR. ASA HILLIARD**

Q. All right. What information does ACT use when they are predicting grades?

A. What information does ACT use when they are predicting grades?

Q. Yes.

A. Previous grades from high school, and they use ACT scores.

Q. How many grades from high school?

A. Four grades from high school.

[1827] Q. And how many scores?

A. Four scores on the test – The four grades and the four scores together make the prediction equation.

Q. Do they use the composite score?

A They don't use the composite score at all.

* * * * *

[1848] Q. In terms of proportions, which racial group would tend to benefit more from the broder high risk definition?

A. A broader high risk definition would be more beneficial to the black students because of their position in – Where they cluster on the ACT scale of achievement.

Q. Could you explain that a little bit more?

A. Because they tend to have lower scores, their mean is lower and the group as a whole is lower on score of the ACT, [1849] so they would be closer to the bottom.

* * * * *

MR. PRESSMAN:

Q. Dr. Hilliard, with respect to Board Exhibit 183, the admissions standards, you testified that at page 9, it indicates that four of the historically white institutions had a minimum of a 15 composite score on the ACT.

Do you have information on the percentage of black graduates in Mississippi who took the ACT in 1985/86 who scored 15 or higher?

Do you have that information?

A. Yes, I do.

Q. On what document does that appear?

A. It appears on Plaintiff's Exhibit 295, (j).

Q. Did you have to do any calculation to get that or does it just appear there?

A. To get the numbers, the—Well, to get the ones that have 15 or higher, I just added from the cut point.

Q. Okay. And what was the percentage of the black students who had 15 or higher?

A. About thirty percent.

[1850 Q. All right. Do you have information for the same year on the percentage of white high school graduates who took the ACT who scored 15 or higher?

A. Yes.

Q. On what document is that?

A. It is on Plaintiff's Exhibit 295, (i).

Q. And what was that percentage for the white graduate?

A. That percentage is seventy-two—About seventy-two plus, seventy-two point two or something like that.

Q. So in terms of—Of each ten white high school graduates, about what number were 15 or higher?

A. About seven.

Q. And for each ten black high school graduates?

A. About one and a half.

Q. Okay.

A. About one and a half.

Q. What was the percentage of—What was the percentage of the black high school graduates of 15 or higher?

A. The percentage of the black high school graduates for 15 or higher was thirty percent—I am sorry, three.

Q. Three out of ten?

A. Right, three out of ten. Seven out of ten for the white.

THE COURT: High school?

THE WITNESS: Yes, sir.

[1851] MR. PRESSMAN:

Q. Would this be students completing high school in 1985/86?

A. 1985/86.

Q. Who took the ACT?

A. Right.

Q. Did you calculate how many times the white percentage about that—15 or above exceeded the black percentage of 15 or above?

A. It is about two and a half times higher.

Q. Doctor, do you have information on how grades obtained in high school, grade point average, by the black and white graduates who took the ACT in 1985/86 compared?

A. Well, if you—

Q. Do you have such information?

A. Yes, I do.

Q. On which exhibits is that?

A. On, for blacks it is on P-295 (j), for whites P-295 (i).

Q What proportion of white students had a three point zero average or better?

A Let's see. Three point zero or better for white

students on the first page, if you combine the column between the—The two columns between three point zero and—it comes out to about forty-three point eight percent.

[1852] Q. And what proportion of black high school graduates had a three point zero or better?

A. Doing the same thing on the P-295 (j), you get about thirty point five percent or better for blacks.

Q. Did you calculate by how many times the proportion for white graduates at the three point zero or better exceeded the proportion of the black high school graduates at three point zero or better?

A. It is about one point two six.

Q. Could you—could you check and see what you just said was in terms of three point zero or better?

A. In terms of three point zero or better?

Q. Yes.

A. Yes. It is forty-three percent compared to thirty percent.

Q. And the percentage by which the white proportion exceeded the black at that level was what?

A. I would have to divide again. —You want me to calculate it again?

Maybe I made a mistake.

Q. Did you also calculate it to two point five or better?

Is that the figure that you just gave me?

A. No, the figure that I gave you was three point zero or better for whites—under three point zero to three point four for whites is twenty-seven point eight, and [1853] three point five to four point zero is sixteen, so it is a total of forty-three point eight.

Q. But the calculation you said was one point two six?

A. You asked me for the relationship between the black and whites—That's what I said I would have to—the

whites are about one and a quarter times greater in GPA than blacks.

Q. So what number did you get?

A. About one and a quarter times, one point two six.

Q. How did that compare with what you gave in terms of test scores where –

A. Well, lesser –

Q Excuse me. Where we are talking about students who achieved 15 or higher?

A. In terms of test scores, there is a greater disparity. In terms of the grades, less disparity.

Q. All right. Referring to those – The same two exhibits, did you calculate what proportion of each racial group had a grade point average of two point five or better?

A. Of two point five or better?

Q. Yes.

A. No, I don't have that.

Q. Okay.

A. Oh, wait. Let's see. No, I did not do it. I had a note to do it, but I did not.

[1854] Q. In terms of what you did calculate, about three point zero or better and the test scores, the difference in the –

A. Oh, yes, I did. Whites for two point five or better, I got sixty-two point two percent.

Q. Okay. What about black students?

A. For black, two point five or better, I got forty-nine point two percent.

Q. And by what measure did the percentage of the black students exceed the percentage of the whites –

A. I am sorry. The percentage of white students exceed the percentage of black students?

A. About one and a quarter.

Q. Okay. In terms of what you have said about the comparison of test scores with grades, would this have any implication in terms of using grade point average instead of test scores or with test scores in admission decisions?

* * * * *

[1855] THE WITNESS: The difference would be that by giving—Given the fact that the—That blacks do better on grades and given the fact that we know that—Well, just given that fact, if you had a way of equating, giving equal weight to grades and to test scores, it would increase the number of blacks that would be selected, if you had a way of doing that.

Q. By the way, does ACT take a position on which is the better predictor, assuming you just used on predictor, grades or test scores—grades or test scores, do they take a position?

A. They do and others do.

Q. And what is the position?

A. The position is that the stronger predictor of high school—From high school grades of freshman year performance in college in almost—In every study that I have seen is that grades are superior.

Q. In terms of—

A. To aptitude test scores like ACT or SAT.

Q. In terms of ACT's data, is it a whole lot better?

A. Well, it would be—

* * * * *

[1856] MR. PRESSMAN:

Q. Does ACT in its publications discuss which is better?

A. They do.

Q. And you gave an answer that they took the position that grades—If you used one, grades alone—

A. That grdes are slightly better than test scores.

* * * * *

[1860] Q. Referring again to Board 183 and the sections which you have discussed on minimum ACT scores, do you have an opinion as to whether or not these provisions are consistent with the standards for use of ACT test scores which ACT sets out in its materials?

Do you have an opinion?

[1861] A. Yes, I do.

Q. What is your opinion?

* * * * *

Q. So you are asked now to give your opinion, Doctor.

A. Okay. Well, based on—I believe they are inconsistent [1862] with the stated policies of and recommendations of ACT.

Q. What document do you have there?

A. I am looking right now at P-292.

Q. What page?

A. And it will be Page 4. It says, for its part, ACT believes that all students who can succeed in college should have a fair chance in selection.

Therefore, ACT recommends that all students be selected with appropriate attention given to qualifications, in addition to test scores.

Q. Okay.

A. A report—

Q. Is there another document that is pertinent?

A. Again, I refer to the issuegram, 186. That is Board Document 186.

On Page 6, ACT tests are but one element in a data base that include information about a student's background, interests, plans, accomplishments and needs for various

types of assistance. This information is useful not only in admission but also follow-up.

Second, ACT test measures academic competency developed by the students through their past educational experience. The scores should, therefore, be interpreted in view of previous educational opportunities and conditions.

Then, ACT tests assesses a student's current educational [1863] development but are not intended to measure either innate aptitudes or the capacity to acquire the academic skills stressed in the test through subsequent intervention, and, finally, ACT data should be used along with other information about students, for example, personal qualities. The type of additional information that is of value is dependent upon the types of uses being made of the test.

The last on Page 7—

Q. What paragraph on Page 7?

A. The second paragraph.

Q. Did you read that before?

A. Yes, I did.

Q. Okay.

A. Do I need to read it again?

Q. No. Is there another document that is pertinent?

A. The Statement of Policies, which is Plaintiff's Document 1—I am sorry, Board document 163.

That is Page 5 and 6. Especially 1-C and then 2-C.

1-C says, ACT test score data should not be used as the sole criterion for admission selection decisions. ACT encourages colleges to consider other measures of academic ability. Specifically, high school grades or the in class, as well as noncognitive factors, such as, interests, special skills, abilities in the admission and selection decision.

Then it also says, colleges should provide students [1864] with a general description of the selection procedures they employ. Those procedures should include consideration of many aspects of the student's capabilities,

experiences, including achievement or ability factors, relevant experiences and noncognitive factors.

Q. Doctor, are you familiar with a report entitled Ability Testing: Uses, Consequences and Controversies?

A. Yes, I am.

Q. Do you have that with you?

A. Yes, I do.

Q. Who prepared that report?

A. As with the previous report, placing children in special education, this is prepared by a panel of the National Academy of Sciences, a blue ribbon group, that was convened to make recommendations and a state of the art statement about standardized testing.

Q. Is—Is this considered to be the reliable authority in your field?

A. Yes, it is. It includes many of the top people in the field of testing.

Q. Does this report address the use of test scores in admissions?

A. Yes, it does.

* * * * *

[1867] THE WITNESS: This comes from page 196 of the document Ability Testing: Uses, Consequences and Controversies. It is the report of the panel convened by the National Academy of Sciences. There is nothing in psychometric theory to encourage a strict and mechanical application of any ranking principle. Test scores are admittedly statements of probability, not of fact. They seek to measure a relatively narrow, if also important, range of cogn itive skills, and they predict against a limited, if also very useful, criterion, usually first year grades, hence, while they can provide important information about an applicant's probability of success, there is no reason when there are many applicants capable of succeeding for test

scores to dominate a decision process.

As the Carnegie Council on Policy Studies in Higher Education commented a few years ago, using numerical predictors to make fine distinctions can look attractive to admission officers, but it is a misuse of tests.

Even recognizing the inherent difficulties, we believe that admissions officers have to exercise judgment on case by case, as, in fact, many now do.

The goal should be to affect a delicate balance among [1868] the principles of selecting applicants who are likely to succeed in the program, of recognizing excellence and of increasing the presence of identifiable under-represented sub-populations.

Q. Okay. Doctor, in your opinion, is the use made of the ACT composite score in the admissions standard in accordance with reasonable professional standards of testing?

A. I do not believe so.

Q. Do you have one reason for that or more than one?

A. I have really one general reason for it. It has to do—Should I?

Q. Go ahead.

A. It has to do with the general recognized principle which you hear every where, and that is that there should be multiple criteria in making decisions and not one.

Q. Okay. Do you have more specific or other reasons? Yes or no?

A. Well, there is one other reason that you make—In my opinion, you make fewer mistakes in rejecting able—applicants who are able to complete a college program.

Q. Okay.

A. And the fact that there are two kinds of applicants where we make those kind of mistakes.

One, we make a mistake because there are many applicants who score below a cut minimum who are capable, without any [1869] additional help, of completing a college program.

Secondly, there are applicants who, with additional help, reasonable additional help couldd also complete a college program.

So, in order not to make both of those mistakes, especially when the consequences fall so heavily on any particular group, it seems to me that it is important to utilize multiple criterion.

Q. All right. Do you have a lengthier list of reasons?

A. A lengthier list of reasons?

Q. Yes.

A. As far as the—Well, yes.

Q. What is your first one?

A. In my opinion, the use of the cut scores—and this is a restatement, it is not consistent with the ACT literature.

Q. Have you already discussed that?

A. I have already discussed that.

Q. All right. What is next?

A. In my opinion, the technical literature that is provided—that was provided to me about the instruments that have been used, does not contain systematic studies demonstrating the use of ACT for individual decision making.

Q Okay. What do you mean by technical literature?

A Well, in any widely used test, the standards require [1870] and the testmakers do provide a manual to explain things about the test, including things bout how the test was scientifically validated, and if there are studies of the use of the test, those studies will be reported or at least a representative sampling of them will be reported in the technical literature, and so you would look for that in the

case of the use of any text.

It seems that the technical literature on—some of it on the ACT and—But not for the individual deicision making that is—that this test is being used for with cut scores in the Mississippi system.

I have not seen technical data on, for exampe, what would happen if alternate criteria were used; what would happen in terms of the—Both the selection of students and their progress through the institution?

The systematic studies that should be available there are not.

Q. All right.

A. Well—

Q. What do you mean by individual decision making?

A. What I mean by individual decision making is, for example, if you use cut scores on a test, the test is really making the decision about admission or non-admission, and you are making that for groups of people who score at a certain level.

[1871] So, for example, all students who earn fifteen will be admitted, all students who earn—Except with the exception of exceptions, all students who earn less than 15, if that were the cut score, would be rejected, except for that—I forget the name of the—The terminology that is used applied to the exceptions.

There are some limited exceptions that we have talked about so far. So, that would be the—That would be—The individual decision making, however would, mean to me that you would utilize these sources of information that the ACT recommends and that others recommend that are normally a part of the decision making process for admissions or at least I have not seen evidence that they are in Mississippi.

Q. Under the Board's standards, are decisions made about individuals who apply?

A. Well, decisions—

Q. Are they?

A. Under the Board's standards?

Q. Yes.

A. In my opinion, it is made as a group. The decisions are made for them as a group. Group membership in the score category.

Q. With reference to the other data to which ACT refers?

A. Not—No, I have seen no evidence that the other data [1872] are utilized.

Q. Do you have a U.S. Exhibit 900 there?

A. Yes, I do.

Q. Does this contain information pertinent to the opinion that you have expressed?

A. Well, it gives an excellent set of examples of the fact that able students—Excuse me, would be able to perform at different institutions. The very first one is the ACT composite score. The students are ranked by those, and then we look at their actual performance in 1981/82 at the University of Mississippi.

Q. Is this 900 (a)?

A. This would be 900 (a).

Q. Okay.

A. And if you just take a look at a couple of these, like look at the cut score of 15 that was being used at that time, and just below that, you have eighteen students who were admitted and who earned grade point averages of two or greater. While twenty-four, who were at that same score earned less than.

Bu if you drop down to 13, what you get is almost a fifty, fifty split. You get thirteen students who had a 13

who got two point zero or better, and you had fourteen students who got less. Then you have almost the same fifty/fifty split of eleven students who got a 12, who got [1873] two point zero or better, and then you got eleven students who got a 12 and who got less than two point zero.

By the way, if you go above the line, you will see at a score of 16, for example, you have almost the same fifty/fifty split of sixty-three students who got a 16 that got two point zero or better, and sixty-four students that got a 16 than got less than two point zero.

You almost get the same thing at a score of 17. Fifty-nine students had a score of 17 got a two point zero or better and sixty-two students got a two point zero or less, almost no difference.

Q. Well, how does this relate to your opinion?

A. Well, it indicates especially that the student who fell below the cut score, that there were able students who were admitted, did perform in a satisfactory manner in that institution, so that applies to the group that could have gotten in performing without any additional help, so there would be some students who fall below the line who are fully able, who would not have been picked by their ACT tests scores alone, but who could have been picked by other criteria.

One example that I mentioned of other criteria earlier was grades, because we know the distributioln of grades, there is less disparity between the grades of white students and blacks, so if you had combined the grades and the test [1874] scores, the probability is that we would have picked up an additional group of black students.

* * * * *

Q. What does that—What did—What does it show as—What does it show in terms of the proportion at the

score of 14 above and below two point zero?

A. Well, at that particular score, it shows that more of those who earned 14 got less than two point zero than earned two point zero or higher.

Q. Then how is this relevant to your opinion?

A. Well, I indicated that certain other score levels, it is fifty/fifty, but even at that, even at the – given the fact that you had – Let's take 14. You had eighteen students that were greater than two point zero, who earned two point [1875] zero or higher.

You had twenty-four, however, that earned less. The question is that – the point is that of the eighteen who were satisfactory, a cut score would have eliminated them, unless they were able to come in under the exceptions rule.

Q. What is used in terms of predicting success in the Board's standards that you have testified about?

A. Well, of course, the Board's standard used only the composite score in making their predictions, and that is – That is different than the – Than what the ACT does. It uses al four of the sub-test scores.

Q. Anything else?

A. Beg your pardon?

Q. Anything else?

A. They use grades.

Q. Okay.

A. They have the capacity to use grades for making predictions. They use grades and sub-test scores, at least that is reported in their service report to the university.

Q. Do they make any predictions based on just the composite score?

A. No, no, not ACT.

Q. Do they say anything about what they consider to be the best material from which to predict?

A. As far as what – As far as which – either grades or

[1876] ACT scores, they make the statement that the grades are a more powerful predictor.

Q. Do they go beyond that?

A. They—

* * * * *

THE WITNESS: The combination of grades and ACT scores is a more powerful—slightly more powerful predictor than either of the two alone.

Q. Could you look at 900 (g).

A. All right.

Q. To which institution does this refer?

A. This refers to Jackson State University?

Q. For what year?

A. For the year 1984/85.

Q. Is this pertinent to your opinion?

A. Yes, it is.

Q. Please explain.

A. Well, in that year, Jackson State had a cut score of 13, but if you look immediately below the line of 13, at the score of 12, you had seventy-eight students that got a two [1877] point zero or better, you have got forty-eight students who got two point zero or less.

At the same time—At the score of 11, you have almost an equal number of students, seventy-nine and eighty-three. Where at getting a score of two point zero or better, seventy-eight students got that or seventy-nine and eighty-three students did worse. They got less than two point zero.

If you will notice, it goes all the way down to 10 even, but not much significant variation, so what that means, again, is that if that cut score had been used for admissions decision alone, that a significant number of—in fact, if the score was used by itself, without the exceptions, then, of course, we see the able student—able because they showed that they were able, would not have been admitted based on their scores.

Q. Can you look at the second page of 900 (k), please.

A. All right.

THE COURT: Second page of what, Counselor?

MR. PRESSMAN: 900 (k).

MR. PRESSMAN:

Q. To what institution does this refer?

A. This refers to Mississippi State University, 1985/86. That page refers to those students who scored 14 and below.

* * * * *

[1878] Q. You are looking at the second page of 900 (k)?

A. Yes. Okay. This page refers to the ACT composite scores, freshman GPA's for Mississippi State, 1985/86, 15 and above.

Q. What is the page before that marked?

A. University of Southern Mississippi, 14 anf below.

* * * * *

Q. Could you look at the second page of 900 (k), please.

A. Yes. Okay. The University of Mississippi, 1985/86, 15 and above.

Q. Could you go to the next page please?

A. Okay. That will be the University of Mississippi, 1985/86, 14 and below.

Q. Okay. Is this pertinent to your opinion?

A. Yes, it is a good example, again, of the University of Mississippi for students who earned at the – who earned an ACT score of 14, twenty-two of them got a score of two point zero and above whereas twenty-one got less than two point zero.

If you look at the score of 13, the same thing happens. You even get a greater number or you also have a greater [1879] number who got their two point zeros. Number 15, compared to 14 that did not.

At the score of 12, you got twelve that got their two point zero and then that did not. Each case better than fifty percent are passing, and even dow to scores of 11, 10, and scores of 9, you are getting almost a break even situation as far as their actual performance at the University of Mississippi.

So, that would be another example of students who were—Did according to records, perform and earn the appropriate grade point average with less than the admission score required.

* * * * *

Q. Dr. Hilliard, if you would look at U.S. 900-0. Does that contain pertinent informatioln?

A. Yes.

Q. To what institution does this refer?

A. It refers to Mississippi Valley State University, 1984/85.

[1880] Q. What is pertinent here?

A. Basically the same pattern, that you take the cut score they had at the time of thirteen and look at the way the distribution of scores performed—scorers performed. See, at the level of twelve, you had fifty-three people who would have been cut out by a strict application of the cut score rule but who actually earned 2.0 or better as compared to 27 percent that scores less than 2.0. Almost two times as many right after the the score line. And then eleven get almost seventy people, sixty-nine people who earned an eleven and who earned 2.0 or better who would have been excluded. And you had thirty-one at that score level who did not do well. And then you had eighty-five at the score of ten who woud—who did indeed perform 2.0 or better and thirty-seven who did not at that level. And then at the score of as low as nine, you had a fifty/fifty split between the performers and non-performers, so it's the same pattern.

[1882] Q. Okay. If we could move on to your next reason for your general conclusion.

A. The Board standards tend to treat every score as if it means the same thing. It's really another way of stating a concern that I stated earlier, but to treat every score of fourteen as if it represents the same level of capacity in a student without knowing other things about that student, in my opinion, would be inappropriate. And I think the standards require that all scores of fourteen, or whatever the scores are, be treated basically the same.

* * * * *

Q. Is there anything to which you haven't previously referred?

A. In—if you would look at Plaintiff's 284, mine is stapled so that the fifth page will be the page I want to refer to. It has a heading, Percentage of University of Mississippi's Fall 1980 Entering Freshman, according to [1883] their ACT composite score category by race.

What that shows is that the patterns of scores on the ACT when comparing blacks and whites is considerably different. For example, you have thirty-six percent of the students who were black at UM that scored less than fifteen and the—scored t the fifteen or less. And you had at the same score level, only five point five percent of the whites. Or if you go to the oither end of the scale at twenty or greater you have black students only seventeen percent, whereas at that same score level you have forty-nine point two percent of the whites students.

So basically, all that does is to show that in terms of ACT scores there is quite a considerable distinction between the way the two groups perform.

Q. What year did those students enter?

A. Well, that—that's 1980 entering freshmen.

Q. Okay.

A. So if you take that and you put it with the—let's see, the Plaintiff's Exhibit 283, which is the—it's a document on the retention of entering freshmen at the class—entering freshmen classes at the University of Mississippi, and this document permits us to make comparisons between the retention of white students and the retention of black students at the University of Mississippi.

* * * * *

[1885] THE WITNESS: Basically what this particular document shows is that even though you get that kind of dispersion in ACT scores, if you look at students at that class that entered the University of Mississippi in 1980, if you look at them after four years you'll find that the percentage of white students that were still—tht were retained after four years is fifty-three percent. If you look at the percentage of black students, you'll find that after four years that same class is fifty-four percent. So it's virtually identical in terms of retention, even though you had that kind of disparity in terms of the admission test scores.

And, clearly, those scores have to mean something different for those two groups of students. That's as a group. And then as individuals, it's even more important that we try to determine what it is that helped the student [1886] to earn whatever score they may present.

* * * * *

[1910] THE WITNESS: As I indicated earlier, based upon the distribution of grade point averages between blacks and whites as contrasted with the distribution of ACT scores that if, for example, if you were relying on grade point averages alone, then that would make more black students eligile than relying on ACT alone. But relying on both of them together still would give an additional advantage, it would make black students have a better chance of being able to meet the admissions criteria?

* * * * *

[1923]

Q. Are you with me where you stated quote, "I wouldn't want to try to solve the admissions problem for you"?

A. Yes.

Q. "I'm not competent to do that?"

A. Yeah. The world should have been prepared. I remember saying that, but—that I wasn't prepared to do that. I've done admissions—I've set up admissions processes before. I've been involved in those quite a bit. So the word is unfortunate that I chose it, but that's not what I meant.

Q. Isn't it true, sir, you indicated to me just two months ago that you wanted to restrict your opinions to the ACT instrument itself and your belief that the use of a cut score was inappropriate for technical reasons?

A. Right. In terms of the use of the—in terms of the use of the ACT, yes, for cut scores.

* * * * *

[1925]

Q. Next question, Dr. Hilliard: Hypothetically, if the ACT score or if the admissions standard was modified, for example, to move from the fifteen to a ten and utilized in the same way that is presently being used, would your sole criterion criticism still apply?

Answer: Well, if the statement about what it is and what it isn't, then it would still apply, yes.

Then I asked a question, did I not sir: Would you consider that in your professional judgment applies misuse of the test?

Answer: Yes, it would be a violation of the ACT stated rational. Do you see that?

A. Yes.

Q. Now, the question, sir, is what I wanted to get to, lines 24 and 25. Would it be educationally unreasonable, in your judgment? And your answer, please, sir, at the top of page 92.

A. Uh-huh.

Q. Well, I really would rather not get into that because that would call for a different type discussion. I would like to try to restrict myself to the instrument itself. Educationally unreasonable, you know, that gets into a lot of other things. And then you told me some of those things, did you not, Dr. Hilliard?

[1926] A. Right.

Q. Among those, if you were evaluating the educational reasonableness of utilization of a test score you would want to consider the availability of developmental studies, wouldn't you, sir?

A. Right.

Q. And you would want to evaluate and consider the nature and purpose of the institution?

A. True.

Q. And you also would want to consider the resources within the system for offering higher education?

A. True.

Q. And then there on line eleven I believe you said, quote, "And on and on and on."?

A. Right.

Q. Close quote?

A. Right.

* * * * *

[1927]

Q. You haven't examined in depth the admissions of the institutions in this state, have you, Dr. Hilliard?

A. No, I have not.

Q. You haven't analyzed the problematic structure in this state, have you?

A. No.

Q. And you haven't made an analysis of the applicants to various institutions, have you, sir?

A. No, sir.

[1928] Q. No analysis – you haven't made any analysis of the applicants, total number of applicants to each institution?

A. When you say no analysis of the total number of applicants, I have some data that refers to the number of applicants in particular years that I've been citing. You mean other than those things?

Q. Other than the one table you read from today.

A. Other than the data I presented here or in the deposition, no.

Q. You haven't analyzed the resources available within the system, have you?

A. I haven't.

Q. You're not addressing today, are you, the feasibility of clinical admission to policies in Mississippi?

A. I have not addressed, nor would I, address the feasibility of any of that. That would take more information.

* * * * *

[1959]

TESTIMONY OF ROBIN NEELY JONES

THE WITNESS: I am rob Robin Neely Jones.

DIRECT EXAMINATION

MR. CHAMBLISS:

Q. Ms. Jones, could you tell us where you were born and your educational background, please?

A. I was born in West Point, Mississippi. I attended the elementary and secondary schools there in West Point. I went on to Tennessee State University in Nashville. I graduated from the University of Mississippi with a

Masters degree in library science. I'm a doctoral student at Mississippi State University.

Q. Okay. Could you give me your employment background, Mrs. Jones?

A. From 1962 to 1965, I was employed with the West Point Separate School District as an English teacher. From 1965 to 1968 I worked in the Starkville Public Schools as a librarian. In 1969—1968 to 1969 I worked with the Macon [1613] Public Schools. 1969 to 1981 I was employed at Mississippi State University as documents librarian.

Q. Okay. Turning your attention to your employment with Mississippi State University, could you give us the position you were employed in?

A. In 1969 I was appointed as instructor and documents librarian at Mississippi State University, where I served until 1981.

Q. And were you on the tenure track then?

A. Yes, I was the first black hired at Mississippi State with faculty rank. I was tenure track and received tenure before my resigning in 1981.

* * * * *

Q. Uh-huh. And in that position, what did you do?

A. My job as documents librarian was to catalog and make available all government publications for the Mitchell Memorial Library. I corresponded with the government printing office in Washington D.C. relative to receiving publications for the library. We were a semi-depository library and I was the one person hired in that department.

Q. Where was your office located?

[1961] A. If you're familiar with the Mitchell Memorial Library, at the time I was appointed I would say it was more or less in the basement of the library. I think that's

where you would call that location. Now, the library has been remodeled and I would consider that office to be located perhaps in the first floor of the library.

Q. Did you have access to other employees there, please?

A. Only during the time of break hours and perhaps when someone wanted some publication from that office.

Q. Could you further explain?

A. I was not in the flow of traffic or let's say my visibility was more or less hendered due to the location of the office. Some days I did not see anyone.

Q. Uh-huh. Was there any restrictions on communication, locomotion, please?

A. Not that I recall.

* * * * *

Q. Okay. Did you have an occasion midway through your career to talk to Mr. T. K. Martin about a door?

A. Many, many times I did.

[1962] Q. Could you explain to the court just what that was.

A. Where my office was located there were some double doors directly in front of my office and those doors were to remain cloased even though there was a sort of entrance way which led directly into my office. I was in the technical process department at Mississippi State University which in that department we did not service the public in that students of faculty members did not come to us for aid in the library. I went to Dr. Martin and I explained to him that I though perhaps the doors that were located directly in front of my office needed to be open and that I was a little bit uncomfortable with the doors closed.

Here again, I was the first black hired at Mississippi State University. I receive some—quite a bit of questioning from the black students at Mississippi State as to why I

was hidden or why I was located where I was and it made me just a little bit uncomfortable. And I went to Dr. Martin requesting that those be opened.

Q. That was about midway during your tenure; is that correct?

A. Yes, about four or five years.

* * * * *

[1963] A. Mississippi State has an open budget which is placed in a special area in the Mississippi room at Mississippi State Library and that publication reveals the salaries of all employees at Mississippi State. And on many occasions I had the opportunity to go and just kind of review the publication as to salaries. Not in particular of department [1964] heads or anything of that sort, but my fellow colleagues that worked with me at the library.

Q. And did you find anything?

A. I was disturbed at some of the information.

Q. Yes or no?

A. Yes.

Q. What, if anything, did you find?

A. Well, I perceived that there were other librarians at the library with education the same as I had who were making more money, or their salaries were higher than mine.

Q. And did you have an occasion to leave the university right after that?

A. I think for about two years I remained at the university until I could find employment elsewhere.

* * * * *

[2019] **TESTIMONY OF DR. ELIAS BLAKE**

Q. Could you name the factors that made up your formulation of the conclusion as that there is an educational gap?

Could you start with degrees granted and go into other?

A. Well, first, the—in comparison—a comparison was made between the proportions of blacks in the population of the State and proportion of blacks in the public schools of the State, the number of graduates that the State produces, all leading up to going into college.

Then, looking at the fact that in no area in the higher education statistics that I looked at did the black citizens achieve anything near their proportion of either access or of college graduates.

This means, of course, when you—when you—when you talk about what—and these are the factors that are involved in saying that there is an educational gap and it is unequal. When you talk about enrolling in college and [2020] particularly obtaining a college degree, a college degree qualifies a person for a whole range of economic opportunities in a State that if you do not have a college degree you cannot get everything from being a school teacher, which requires generally that you are a college graduate, certain kinds of management jobs and in business and industry require that you are a college graduate.

If you want to go to graduate or professional school and become a lawyer, it requires that you are a college graduate, or a doctor, so on.

So, that when you have these disparities which have not yet been overcome, you have a very serious problem of inequality in terms of black students of the State in regards to their education.

So that when I looked at the Mississippi citizens who have four or more years of college, and see that among those Mississippians between 20 and 24, nine point six six percent of the whites have college degrees or four or more years of college training, and only four point seven percent of the blacks.

If you take the 25 to 29 year old age group, you see that twenty-one percent of the whites in the state have four or more years of college compared to only elevent percent among the black citizens.

Those that are 30 to 34 years, twenty-one point nine [2021] percent of the whites have four or more years of college, compared to only thirteen percent of the blacks that have four or more years of college.

Now, at a minimum, those numbers ought to be equal, but when you go back into the system and you see that the proportion of blacks who are getting access to the system are less than the proportion of the blacks in the population, you also then get these differences in terms of the graduates and in terms of the completion of college in the—in the state.

As long as that is the case, then I am saying you have gaps in the education of blacks as far as college is concerned that need to be closed and need to be brought in line so that their educational situation is identical to that of the white citizens of the state and they then get the same benefits from that as white citizens in the state get in terms of the income, in terms of the jobs, and all of the other things that flow from that.

* * * * *

[2024] Did you have an occasion to look at the master level and/or PhD?

A. No. The—well, there were some data on PhD's in the—in the system from those institutions which granted PhD degrees, and—

Q. Do you—

A. And in 1985 and 1986, of the two hundred and seventy-six PhD degrees which were awarded in all of the institutions of higher education in the state, only nineteen or six point [2025] eight percednt of the PhD degrees went to black citizens of the State of Mississippi.

Now, that is a long ways from any kind of equal achieving of PhD degrees in the system of the State.

* * * * *

[2049]
from the State Department, and it represents the questions and inquiry, may it please the Court.

THE COURT: Well, Counsel, as to any question that I ask, if you have any questions that you want to ask him with regard to that, you may do it on redirect.

MR. CHAMBLISS: I don't have any questions, just exhibits.

Thank you, Your Honor.

THE COURT: All right. The Defendants may cross-examine.

CROSS EXAMINATION:

MR. STEPHENSON: Thank you, Your Honor.

MR. STEPHENSON:

Q. Dr. Blake, on direct examination today, you have expressed a conclusion with respect to academic programs in the state, sir?

A. Yes. Well, yes.

Q. And isn't it also true, sir, that with respect to your program work, that you have not addressed present allocation for distribution of programs in the state?

A. No, I have not done that.

Q. And it is also true, is it not, sir, that you have not directly, nor examined the educational justification of program actions taken?

A. Not the justification—well, I looked at the data [2050] that they had. They just simply gave a list of reasons, but no detailed justification. They indicated that ti was enrollment or other factors as to why they were eliminating programs.

Q. But, you, yourself, made no detailed analysis?

A. Right.

* * * * *

Q. You also testified, did you not, Dr. Blake, with respect to admissions, and I believe you identified a pool of high school students that you considered eligible for admission into the system.

A. Right.

Q. Isn't it true, sir, that you consider, under your analysis, all high school graduates to be eligible regardless of whether they have indicated any desire to go to college?

A. Yes. Yes, yes. I would.

Q. And isn't it also true, sir, that for purposes of defining the eligible pool, that you were making your calculations according to the representation of persons by race in the population as a whole?

A. Yes.

Q. All right.

A. No, not in population as a whole. As population as a whole within certain limited age groupings.

* * * * *

[2051]

Q. Well, that is—the purpose, though, of my question was, you concede that there are differences in the level of academic preparation between blacks and whites?

A. Yes, that is right.

[2052]

Q. I am showing the witness Board 183.

Have you seen that document, sir, before today?

A. No, I have not seen this document.

Q. And for purposes of the record, would you read into the record the title?

A. Admissions Standards and Core Requirements.

* * * * *

Q. I believe you indicated that you were President of [2053] Clark College?

A. Yes.

Q. And that is an undergraduate institution in Atlanta?

A. Yes.

Q. Isn't it true, sir, that your admissions standard at your institution utilize the standardized tests?

A. We use it as one index, yes.

Q. Isn't it true, sir, that for a student to be eligible for unqualified admission at your school that he or she must achieve a 700 on the SAT?

A. No, that—that is not true. It is not an absolute requirement.

Q. Well, isn't it the bases, though, for purposes of determining whether they obtain what you have described in your deposition as "unqualified admission," if they have the 700 and a C average in high school, they will be admitted without addressing other criteria?

A. But if—

Q. Can you answer my question, sir, yes, and then you may explain.

A. No. In our system, if the person has a score that is lower than a 700, but they have a higher grade point average, they can still be unconditionally admitted.

Q. Well, under your system, if the student has a 700 and a C average, he will be admitted?

[2054]

A. He will be admitted.

Q. And if he has a below 700 on the ACT (sic), you would look at additional criteria?

A. Yes.

Q. All right. And do you happen to know, sir, I believe we discussed it at your deposition, the ACT equivalent for the 700 on the SAT?

A. I am not positive of that. I believe that it is 18. I believe that 18—no, I don't know that. The 18 is equivalent to 800 on the ACT, but the equivalent of the other score, I do not know what that is.

* * * * *

[2054]

Q. I am showing you again, Dr. Blake, Board Exhibit 183, and referring you to the SAT score of 700, and ask you, if you would, please, sir, to read into the record the ACT equivalent according to this table?

A. The ACT equivalent of 700 is 15.

* * * * *

TESTIMONY OF WILLIAM L. WARE

THE WITNESS: My name is William Levi Ware, W A R E.

THE COURT: All right, sir.

MR. OSBORNE:

Q. Dr. Ware, for the record, state your race, please?

A. I'm a Negro.

Q. And where is your place of – where were you born?

A. I was born in LeFlore County, Mississippi.

Q. Okay. Where did you attend high school?

A. I attended high school in the Greenwood Public Schools. I graduated from Broad Street High School.

[2073]

Q. Did you attend college?

A. I did.

Q. Where?

A. Mississippi Valley State University.

Q. Okay. And what degree – did you receive a degree from –

A. I earned a BS degree there, yes.

Q. In what area?

A. Health and physical education.

Q. And did you do any further studies?

A. Yes.

Q. Where?

A. I have a MA degree from California State University, Los Angeles. I have a PhD from University of Southern California. All degrees are in health and physical education.

Q. When did you receive your Master's and when did you recieve your PhD?

A. That's been a long time ago, Counselor. I received a degree in 1957 from Mississippi Valley, 1969 from California State Los Angeles, and 1978 from the University of Southern California.

Q. Okay. What is the first job you held after you finished college?

A. I was fortunate to go back to Greenwood and teach at the high school I graduated from.

Q. What did you teach?

[2074]

A. I taught health and physical education.

Q. How long—

A. I coached also.

Q. How long did you hold that position?

A. I held that position for six years.

Q. Okay. What was your next place of employment?

A. I then moved to the Los Angeles area. I coached and taught in the Bell Flower California Public Schools. My intent was to leave the state. I needed to further my education and it was not possible to get an advanced degree in the State of Mississippi, so we migrated there to Los Angeles.

Q. Why was it not possible to get an advanced degree from the State of Mississippi?

A. Well, we just were not admitted to Ole Miss. Mississippi State, Southern. They were offering advanced degrees.

Q. When you say we, who are you referring to?

A. Excuse me, blacks.

Q. How long did you hold this position—was it Bell Flower?

A. I was there for six years.

Q. And did you take the position after—

A. Then I took a leave of absence to—I had earned—while I worked there going to school at night I

earned a Master's at California State. I entered the doctoral program at the University of Southern California and took a [2075] sabbatical. I did not go—rather, took a leave of absence. I did not go back but took a job with the state university system after getting a degree. Well, even prior to getting a degree.

Q. What job did you take in the state university system? At what school were you employed?

A. I was employed at California State University at Northridge. It's up in the North San Fernando Valley in the Los Angeles area.

Q. What position?

A. And I worked in the leisure study department. I taught. I taught a number of things. One, being administration of physical education.

Q. Where are you presently employed?

A. I'm presently employed at Mississippi State University.

Q. How long have you been employed at Mississippi State?

A. I have been employed at Mississippi State University since January of 1979.

Q. Okay. And in what position were you first employed?

A. I was employed as an assistant professor in the health and physical education department.

Q. What is your present position?

A. I'm presently an associate professor in that same department.

Q. Okay. What was your salary when you were initially [2076] hired by Mississippi State?

A. It's a pittance as it is now. I think for a half semester I worked for eight thousand dollars. I—that was just for that one semester, so it was like sixteen thousand

dollars or so.

Q. What is your present salary?

A. I'm at twenty-six thousand.

Q. Now, have you—you have received a promotion since you have been employed at Mississippi State?

A. Yes. I've gone from assistant professor to associate professor. I do have tenure.

Q. And when were you granted tenure?

A. Approximately four years ago.

Q. Have you ever been denied a promotion since you have been employed at Mississippi State?

A. Yes, I have.

Q. Have you—I've been denied a promotion from associate to full professor.

Q. And when were you denied that particular promotion?

A. About three years ago.

Q. And were you given any reason for the denial of that promotion?

A. Yes, I was.

Q. Did you—did you appeal the denial of that promotion?

A. Yes, I did.

[2077] Q. Who did you appeal it to?

A. I appealed it to the dean of the college of education. Well, I really appealed it to the department chair because I knew I would get no redress there. And I suggested to him that I might talk to the dean about it and I made a verbal appeal.

Q. What was the results of that appeal?

A. You mean did I get promoted?

Q. (Nods head up and down.)

A. No, I didn't get promoted. There was really no adjudication of the issue.

* * * * *

Q. Do you know the level of blacks employed in your particular department when you were first hired at Mississippi State?

A. The number then?

[2078] Q. Right.

A. None.

Q. And how many blacks are employed in your department now?

A. One.

Q. Has there been any changes in the department head since you've been employed in the physical education department?

A. There have been two changes, Donald Van Horn was department chairman when I came.

Q. Was he black or white?

A. He was white. Jack Maharon followed him.

Q. Who followed Mr. Maharon?

A. Paul Crebbs is current department chair, will be until July 1.

Q. What is Mr. Crebb's race?

A. He's white.

Q. What about Mr. Maharon?

A. White.

Q. Okay. Did you apply for either of those positions?

A. I applied for both.

Q. And were you interviewed?

A. No, I was not one of the five finalists.

Q. Were you given any reason why you weren't employed on either occasion? Weren't hired at least?

A. I did talk about it, asked some questions about it. Even – I think I even discussed it with someone at EEOC. [2079] The fact was that – rather, that I was told that they were looking for someone with prior administrative

responsibilities, with prior administrative skills.

Q. Did you have any administrative experience at the time you applied?

A. Can I answer by saying that I had as much as either one of the guys that were hired? None of us had any.

Q. Have you applied for any other positions with Mississippi State?

A. I don't want to make it appear like I'm a constant applicant, but I have. I applied for media center director.

Q. And who received that particular position?

A. Warren Land.

Q Who?

A. Warren Land.

Q. Is he black or white?

A. He's white.

Q. Were you told why you were not hired for that position, that particular position?

A. I don't think I even—

Q. Did you hear the question?

A. I don't think I even discussed it after I discovered who was hired.

Q. Have you applied for any other positions with Mississippi State?

[2080] A. Yes, I have.

Q. And what positions are those?

A. I applied for athletic director.

* * * * *

[2081]

THE COURT: Well, the Court's going to overrule the objection at this point. I will state for the record, gentlemen, that of course this case is—has been brought against the Board of Institutions of Higher Learning in the State of Mississippi. The Board of Institutions of Higher Learning has no authority to promote or hire individual

faculty members within a university and just as the Board of Institutions of Higher Learning has no authority to correct inequities that might exist in the primary and secondary school system of this state, that the previous—Dr. Blake talked about. They can only address matters that come before them. And of which they have authority.

I'll hear a certain line of testimony concerning these individual faculty situations that were in existence between [2082] an individual faculty member and a department head in the University, but as far as it having much probative weight with this court concerning discrimination by the Board of Institutions of Higher Learning, it's going to be very doubtful. So the objection is overruled. You may answer the question. Would you like the question read back, Dr. Ware?

* * * * *

Q. When did you apply for athletic director?

A. Late '70's, about 1977.

Q. Were you interviewed for that particular position?

A. No.

Q. Do you know who was hired to fill that position?

A. Bob Tyler. He was then head football coach. And the athletic directorship and the head football coach position was combined.

Q. He's black or white?

A. White.

* * * * *

Q. Okay. And—okay. What were the specific concerns you raised relating to you and other blacks being paid out of the compliance fund?

A. Well, one of the things that happened—and I saw an inequity there, I believe it was three years ago, the last

time faculty was given a substantial pay raise, the direction came that said department chairs, or whoever made those decisions about salary raises, should consider giving between two and twelve percent. Anything about twelve percent or below two percent had to be justified. The—there was an edict that came from the affirmative action office that said those people paid out of the compliance fund should be paid [2087] somewhere between two and seven percent. Anything above seven had to be justified, anything below two had to be defended.

Well, when I heard that I yelled discrimination. And, of course, raised an issue subsequently with the next—with that president, subsequently with the next president about that and voiced some concern that that was not legal.

Q. Are you saying that people who were paid out of the compliance fund budget received a lower percentage raise than people paid out of the regular university appropriations?

A. That was the direction, and I assume—that was the direction that was given and I'm sure they complied with that.

Q. What was the percentage of the raise that you received?

A. I received three and a half percent.

* * * * *

[2090]

Q. Have you had any complaints or filed any grievance relating to classes that you were not allowed to teach?

A. Yes, I have.

Q. And could you explain the nature of that?

A. Well, last summer notably, after having been scheduled to teach two classes, which is a normal load for a summer [2091] term, I was only scheduled to teach one

summer term, and there were others scheduled to teach two summer terms. I had eight people in one class, fifteen or sixteen in another class, I was told after the class had met for a week that I should discontinue that class, the class had been discontinued and I should counsel those students into some other class, and I was given some numbers of classes that would—had made it, that would go.

After having given those numbers, another faculty person—I had—had checked with the enrollment center the previous day, the previous Friday and this was Monday, and some of those classes had fewer people then my class had.

Q. Why was your class discontinued?

A. Well, they said because of low enrollment. I had eight people in that class.

Q. How many were you told you needed.

A. I was told I needed ten.

Q. And were there some classes allowed to continue with less than ten students?

A. Yes, there were some classes allowed to continue with fewer than ten.

Q. Were the instructors of these particular classes white or black?

A. White, yes.

Q. And did you file any complaint relating to disparity?

[2092] A. Yes, I did. I talked to the department chair, which was—which is termed informal grievance. I talked to the dean, and then I finally filed a written grievance, a written statement with the affirmative action officer.

Q. What was the nature of the grievance that you filed?

A. That I had been treated differently, consequently I

had been discriminated against, than other faculty member. Other faculty members, as I indicated, were able to teach with fewer, and they were given a choice whether they would teach with fewer than ten in a class with a prorated salary. I was not given that option.

Q. Can you explain you answer about salary being prorated and tell me what you mean by that.

A. Well, it meant tht they were able to teach that class—their classes and were not given the full compensation for their summer term.

Q. Okay. Did they have ten people or less than ten?

A. They had less than ten.

Q. Were you given that option?

A. No, I was not.

Q. Okay.

* * * * *

Q. Dr. Ware, at the time you attended graduate school [2093] outside of the State of Mississippi did you receive any scholarship from the state to attend this particular school?

[2094] A. Yes, I went to the University of Colorado, the—either in nineteen hundred sixty or sixty-one for a summer. The state subsidized that.

* * * * *

[2399] **TESTIMONY OF DOUGLAS ANDERSON**

Q. Okay.

A. To serve on the State Building Commission.

Yes, I served on the State Building Commission for approximately three years.

* * * * *

Q. What was your major assignment there?

A. Well, you know, the Building Commission basically oversaw – Is the overseer of the facilities on the campus, and basically we handle all building projects, and we handle the renovation or repairs for all State agencies.

In my capacity, I served as Chairman – A Subcommittee Chairman for Jackson State, Alcorn and Mississippi Valley State, in addition to Oakley Training School and Ellis down [2400] in – Ellisville and what-have-you, but –

Q. Okay. Now, these institutions that you just named, what predominantly race occupy or at least attend those entities?

A. Jackson State, Alcorn State and Valley State is predominantly black.

Q. What about Oakley Training School?

A. I would assume that most of the people there were also black.

* * * * *

[2404]

Q. Let's stop there. Could you – The – Senator Anderson, with respect to the project at Mississippi Valley State University, were there any problems encountered in the construction of that facility?

A. The stadium?

Q. Yes.

A. Yes, there were conflicts between –

Q. Could you explain that, please.

A. There was a conflict between the Building Commission and the College Board. We had some three hundred –

Q. Excuse me. If you could point – It would help the Court if you would point out – You said Building Commission and the College Board.

If you could point out the relative positions so that the record would indicate just –

A. Okay. Well, let me – I will explain it and then I will

try to answer your question.

We had appropriated some three hundred thousand dollars to build a first phase of the stadium at Mississippi Valley State.

[2405] The Building Commission decided that we should build a concrete first phase, all concrete.

The College Board took the position that that would be rather expensive, that we should not build an all concrete facility, we should build a wrought iron facility as a stadium which would be similar to a high school stadium, the kind that is open, if you drop something, it falls all the way to the ground, and the—The support of the stadium would be iron exposed to the weather and what-have-you.

The Building Commission took the position that we should build an all concrete facility. We argued that back and forth for several meetings.

We ended compromising with the IHL Board by building what we call a brick—a veneered type stadium. The problem that we had there was that we had the money to build either one. It was not a question of money.

For some reason, the IHL Board did not want a concrete stadium built at Mississippi Valley State, so we ended up with a veneered one, which gives the impression on the inside as being a concrete facility but on the outside of it, it would be the wrought iron exposed material.

* * * * *

[2410]

Q. Okay.

A. Sometimes the legislature did direct the Building Commission to preplan buildings also, so that was not done only by the College Board of the recommendations we did.

It also came from legislation from the legislature to preplan buildings.

Okay. Now, the proposal was written by Jackson State, they designed a building, a twin tower dormitory for Jackson State.

* * * * *

[2411]

Q. Okay. Keep going.

A. The proposal called for a twin tower building that could have been used as a co-educational dorm in that the two towers were separate with just a common lobby area, because we had such housing shortages for both female and male students.

The proposal was approved by the Federal Government, and the grant was—the grant was approved.

Now, however, the College Board objected to the proposed building.

* * * * *

[2413]

Q. Your heard the instructions of the Court?

A. The instruction from the IHL Board was not to construct the twin tower building, so we—The building hd to be redesigned and this amendment proposal had to be resubmitted to the Federal Government. Now—

* * * * *

[2414]

Stop me in the testimony and point out at any point where the project can be stopped based on what you are testifying about?

A. Okay. The IHL could not have stopped the project.

Q. Okay.

A. It was their recommendation to the Building Commission.

Q. Okay.

A. That that facility not be built for the twin towers.

Q. Okay. And you were about to say—you were starting all over.

A. So the College Board (sic) accepted those recommendations from the College Board, and then recommended that the—the building be redesigned.

Q. Okay.

A. For a single tower.

Q. Now, what do that—What—In redesigning, what does that encompass?

I guess that is what I am saying.

A. Well, then redesigning it to the single tower meant that—

[2415] Q. Go ahead, sir.

A. That proposal had to be resubmitted to the Federal Government.

Q. Okay. Could you go through that process?

A. And this process of resubmitting could have possibly resulted in the—in the grant being cancelled.

Any time you have to go back, this gives the Federal Government a chance to reject a project, if they desire to do so.

So, it jeopardized it. It could have endangered the grant.

Q. Excuse me. Was there any role that had to be played by any of those entities in going back?

For example, any matching of State funds or any other requirements?

A. No, all funds were, you know—

Q. Okay.

A. —To come from the federal funds except for the design of it itself.

Q. Okay. Was that—Did that have to be reauthorized on appropriations for that?

A. No, no, no. It did not have to be.

Q. Okay. I keep testifying. I am sorry.

A. So the building was redesigned, and in that design, there were some study rooms placed on the design to be on [2416] each of the floors of the—of the dormitory. That was rejected also by the College Board, so it took a second redesign to eliminate those study rooms to be placed on the floors.

Q. Okay.

A. After that, the building was approved and it was subsequently built.

Q. I think you testified earlier that there was an athletic and assembly building built.

Could you tell us what, if any, problems occurred during the construction of that facility?

A. The athletic assembly building, I introduced a bill for five million dollars for the construction of the athletic assembly building.

The College Board was arguing about my introduction of this bill because it was not a recommendation of the College Board, and subsequently they—The bill was put into appropriation, and it—we did get it approved, somewhat over the objections of the College Board.

Usually, there is a lapse of time in between the appropriation and the actual building, so something in the neighborhood of a year or two elapsed between the actual beginning of the construction and the appropriation.

This was a time of high inflation. The cost of building that building had escalated to in excess of six million [2417] dollars, which meant that we did not have adequate funds to complete the building.

The College Board recommended in a letter to the Building Commission that the capacity of that building, which was ten thousand—Jackson State at that time had a student body population in excess of seventeen thousand,

I believe. They wanted—They recommended that that building be reduced to less than five thousand capacity in order to stay within the appropriated funds.

The Building Commission took the position that we could construct the building and go to the legislature for additional funding to complete the building at the ten thousand capacity.

Talks were held with the Building Commission and the Chairman of the Appropriation of both Houses, who agreed to consider a bill to give additional funding.

The College Board said that we could not proceed with the building at the full ten thousand capacity—ten thousand seat capacity because they had to have an operational building within the ten—within the five million dollars.

In the construction phase, we could build most of the—most of the assembly building and to stay within the five million dollars, we would have to leave some of the floor under the bleechers area unsurfaced and that sort of thing, and we did not have enough funds to—to buy the—to buy the [2418] chairs for the facility.

So, the College Board then said that until you can make it a working, an operational building within the five million dollars that we could not proceed.

After some deliberation, we then got a letter for Jackson State University pledging that they would somehow help with the funding for the chairs to the tune of some two hundred and twenty-three to twenty-five thousand dollars. It was a paper type arrangement.

Before the Legislature would meet the next time, we would not have spent the full five million dollars, but we had to have the plan encompass an operational facility.

So, we received that letter and we then proceeded with the construction.

The final year in the Legislature, I introduced a bill to give an additional two million dollars to Jackson State for

completion of that project. That money was appropriated to Jackson State—the Building Commission for the completion.

At the time, I thought that the two hundred and twenty-three thousand dollars could be paid for out of those appropriated funds, but the College Board argued that they did not want the money paid for out of the appropriating funds, they wanted the money to come somehow from the budget of Jackson State. I did not see why.

[2419] If the money is paid, it should not have mattered, you know, from which source the money came. But, anyway, we did—I don't know how that problem was resolved. I do know that we did spend an additional million five on the building, and we used the balance of five hundred dollars on constructing parking at the assembly building.

I just might add, if I may, that these problems never existed at the predominantly white institutions.

[2494]

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THE COURT: The Defendants may cross-examine.

DOUGLAS ANDERSON

CROSS EXAMINATION

* * * * *

[2497] Q. Senator, what year did the legislature appropriate the money for phase one of the football stadium at Mississippi Valley State University?

A. I don't know the exact year, but I would—I was serving in the House of Representatives, so it should have been somewhere around 1978, 1977, 1978, somewhere in that area.

* * * * *

[2498] Q. All right. Where were you serving in the legislature in 1982, which house?

A. In the Senate.

Q. All right. Do you recall that IHL's number one recommendation for facilities for institutions of higher learning that year pertained to Alcorn State University?

A. It may well have been.

Q. Do you—

A. I don't recall the priority list. I do not know that Alcorn State was high on the priority. I don't know which year, but they did receive some favorable consideration for a nursing school or what-have-you.

[2499] Q. That is exactly what it was. Thank you, sir.

Do you recall that same year, 1982, that IHL's number two recommendation for facilities for Institutions of Higher Learning was for Jackson State University?

A. No, I do not recall that—that priority.

Q. That was for a health center. Do you recall that?

A. No.

Q. The recommendation that came from IHL to the legislature?

A. I remember talk of a—of the health center or a need, but I did not personally see the—the priority list.

Q. In 1983, where were you serving in the legislature?

A. The Senate.

Q. Do you recall that that year that IHL's number one recommendation to the legislature for facilities for Institutions of Higher Learning was for Alcorn State University?

A. I do know that during that time there was a high recommendation for a stadium during this time. I don't know whether that is the particular one that you are talking about, but there was a high priority in that area.

Q. Senator, before coming up here, did you happen to calculate the percentage of State appropriations for capital improvements; that is, the percentage of all capital improvements of all universities, the percentage that has been spent at Alcorn, Mississippi Valley State and Jackson

State from 1970 up until the present time?

[2500] A. No, I did not, but I do know that there are some figures that was given by the College Board that are erroneous in that they did not include the funds that were expended at the Medical Center and some of the other facilities that we had.

We got some letters from them as to their percentages, but they left out specifically, the Medical Center, which askewed the percentage toward black institutions rather than showing the true picture.

* * * * *

Q. You have been in the legislature, sir, I believe twelve years?

A. That is correct.

Q. During how many of those twelve years have you been employed at Jackson State University?

A. All twelve.

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TESTIMONY OF PAM GORDON

[2542] THE WITNESS: My name is Pam Gordon, G O R D O N.

DIRECT EXAMINATION

MR. OSBORNE:

[2543] Q. Mrs. Gordon, for the record, would you state your race?

A. Black.

Q. How old are you?

A. Nineteen.

Q. Okay. What county do you live in?

A. In Lafayette County.

Q. Okay. Did you attend high school in Lafayette County?

A. Yes, I did.

Q. What high school?

A. Oxford High School.
Q. Are you presently attending college?
A. Yes, I am.
Q. Where?
A. Mississippi Valley State University.
Q. Did yu take the ACT test in high school?
A. Yes, I did.
Q. What score did you make on that test?
A. Twenty.
Q. Ma'am?
A. Twenty.
Q. What was your grade point average in high school?
A. Approximately—it's equivalent to a B.
Q. Did any of the colleges and universities in Mississippi attempt to recruit you as a student?
A. Yes.
[2544] Q. What schools?
A. Mississippi Valley State and Jackson State University.
Q. Were you recruited by any of the traditionally white universities in Mississippi?
A. No, I wasn't.
Q. Were you recruited by Ole Miss?
A. No, I wasn't.
Q. Did you consider attending the University of Mississippi?
A. I did, but because of the reputation of it being unfair to black students, I decided not to.
Q. Were there any particular incidents at Ole Miss that caused you not to want to attend this school? Anything that happened on campus?
A. The incident that the black cheerleader refusing to take the rebel flag because of the near riots there and the Klan march.

Q. You are presently attending Mississippi Valley State?

A. Yes, I am.

Q. Has there been any talk about closure of Valley State since you have been a student there?

A. Yes, there has been.

Q. Has this had any effect on you or any of the other students attending school there?

A. It's—it causes low morale and some students are even applying for different colleges.

* * * * *

TESTIMONY OF DON COLE

[2574] THE WITNESS: My name is Donald Ray Cole, C O L E.

DIRECT EXAMINATION

MR. OSBORNE:

Q. Dr. Cole, for the record, would you state your race?

A. Black male.

Q. Where did you attend high school?

A. Sammy Brinkley High School, Jackson, Mississippi.

Q. Okay. Where did you attend undergraduate school?

A. Undergraduate my first two years were attended at the University of Mississippi and the final two years was at [2575] Tugaloo College.

Q. Where did you do your grad work?

A. I did graduate work at the University of Michigan, the State University of New York at Buffalo and the University of Mississippi, Oxford.

Q. What graduate degrees do you hold?

A. I hold two Masters degrees in mathematics and a PhD in mathematics.

Q. Where did you receive your PhD?

A. It was received at the University of Mississippi.

Q. In what year?

A. Nineteen eighty-five.

Q. Okay. Were there any other black graduate students in your department when you were in the PhD program at the University of Mississippi&

A. Yes, there were others in the department. I was in the department for a number of years so there were some along the way in there.

Q. How many years were you in the math department at the University of Mississipp?

A. As a graduate student?

Q. Right.

A. From 1977 to 1985, which is eight years.

* * * * *

[2578] Q. Let me ask you another question, Dr. Cole. When you were officially accepted in the department, in the math department at Ole Miss, was there any difference between the source of funds you received and the source of the funds [2579] received by the white graduate students?

A. Funding-wise, my funds to start the program were external to the mathematics department and most of the other graduate students held assistantships in the department, so funding-wise, mine was external. It happened to have come from the learning development center whose director at the time was Dr. Lucius Williams.

Q. Is Dr. Williams black or white?

A. Dr. Williams is black.

Q. Okay. What was the effect of the—what was the effect of you receiving funds from a different source from the other graduate students?

A. For the most part, it meant that most of my emphasis and commitments had to be—many of them had to

be external to the department and it meant that I had to be away from the department because the learning center was located somewhere else. And in light of that, I didn't have opportunity to have availability to many of the professors at opportune times in which I perhaps would have needed them. It also isolated me from discussions that would just naturally take place in such an environment if a few of the graduate students wanted to get together and talk about what "Professor A" did today and how they understood it. I was remotely located and so, in that sense, I missed out on quite aw bit of that, which is all but essential many of the times in going through [2580] the program.

Q. Okay. Did the other graduate students have offices assigned to them in the math department?

A. Yes. As they were graduate assistants and that was their source of funding, then they had offices in the department itself.

Q. Did you have an office in the math department?

A. Initially, I did not.

Q. Did you experience any problems with your PhD committee?

A. Yes, sir.

Q. And what problems did you experience with the PhD committee?

A. I had problems with the committee convening itself timely and properly so that major decisions could be made and so that my degree process could continue to grow at a timely pace and go smoothly.

Q. Did you make a request to any of you advisors to convene your committee?

A. Yes, I did.

Q. And how long did it take for the – how long did it take to – for the committee to be convened?

A. Initially, I made the request verbally, which was quite – which was quite common. And after a month or so

would go, I would make another verbal request. And soon I made a written request. And you asked about the time, and I would [2581] suspect that in the order of ten months to a year or so the committee was finally convened to—which was the initial phase to get things started.

Q. And what effect did this have in terms of your—the progress you were able to make towards obtaining your degree?

A. It slowed, it definitely slowed the degree process down. And also along the way, you know, one just beings, to himself, to make certain inferences to himself as to why this or that or why not, and so it's—for the most part, I guess it was mental strain and fatigue and et cetera, to build up, and it makes one wonder why, for the most part.

Q. What is the normal time that it takes to have a PhD committee convene?

A. I don't know about normal, but one could convene such in a week if they so desired or less.

Q. Did any—I'm sorry?

A I was just saying or less. Go ahead.

Q. Did any of the white students in your department experience similar problems in having their PhD committee meet?

A Not to my knowledge.

Q. Do you know if any of the black students in your—if either of the other two students in your department, black students, had similar problems?

A. I only know that Mrs. Tucker had similar problems.

[2582] Q. Is there a particular number of times that the PhD committee is required to meet or should meet?

A. Not a particular number. It could be as few as two. It could be as many as needed to keep the process going on.

Q. Now, the other—was there any particular reason why you felt that you were at a disadvantage by not being assigned as assistantship within the math department when you initially entered the program?

A. Would you repeat that for me?

Q. Were you placed—let me ask it this way: Were you placed at any disadvantage by not being assigned an assistantship within the match program—math department when you initially entered the program? Disadvantaged as compared to your white colleagues?

A. Well, to the extent that I was excternally located and to the extent that the source of funding at the time required me to work at night, and to the extent that I didn't have the same accessibility because not being physically located in the same place, and other than a feeling of being isolated and not having availability as I would like to have had. You know, those things.

Q. Do you know whether or not the assignments that the white students received were related to the math program?

A. Well, in that it's part of the program, individual professors looked for various qualities and one of the principal [2583] qualities that's looked for at Ole Miss, of course, is one's classroom behavior and how well one does in the classroom when he's performing, when he's teaching, and without ability to actually demonstrate this then this—that can—that can make professors wonder or that can prolong things. So in that sense, that was a disadvantage.

Q. Do you know whether or not the work experience is considered to be an important part of the PhD program?

A. It's a very valuable part of the program.

Q. Are you saying initially that you were denied access to this important component of your program?

A. I was not able to demonstrate that part of the program because the funding came from a source that did not allow that.

Q. Now, you stated that you also attended Ole Miss as an undergraduate student; is that not correct?

A. Yes, I did.

Q. And why didn't you complete your degree, your undergraduate degree at Ole Miss?

A. After my sophomore year, because of racial unrest and protest at the time in which I was involved in, I was expelled from the university.

Q. What was the nature of the protest that you were involved in?

A. The nature of it was centered around the fact that many [2584] concerns of various black students on the campus weren't being addressed, and in an effort to get some of these concerns addressed we approached the administration with a number of requests, time and time again, and we held some demonstrations, which were very popular at the time, to protest the concerns not being met and to bring attention to them.

* * * * *

[2589] TESTIMONY OF DON COLE

Q. Dr. Cole, what did you major in—what was your major in undergraduate school?

A. Mathematics.

Q. Did you consider majoring in mathematics while you were an undergraduate student at the University of Mississippi?

A. Yes, I did.

Q. And did you talk to the department head or anyone in [2590] the math department about your intentions to major in mathematics?

A. Yes, I—I approached the then chairman of the mathematics department to talk about my majoring in math and a career in mathematics.

Q. And what was the response that you received?

A. Well, upon entering his office, he got got up out of his chair suddenly and asked that we go outside in the hall and he—we had a very brief conversatioln there. He asked me what did I want, and I told him that I was interested in majoring in mathematics and that I wanted to talk about particularly about that; what I needed to do and what I needed to take and, et cetera, and he made the comment that I could not major in math and asked me if I wanted anything else. The conversation ended there when I said that was all that I wanted.

Q. And who was this particular person?

A. Chairman at that time—I cannot remember his first name but his last name was Dr. Bickerstaff.

Q. Did Dr. Bickerstaff make any inquiry about your grade point average?

A. No, he did not.

Q. And what was your grade point average at that particular time?

A. I honestly don't remember.

[2591] Q. While you were an undergraduate student at the University of Mississippi, did you experience any harrassment because of the fact that you're black?

MR. GOODMAN: To which we object because of the relevancy.

THE COURT: Sustained.

MR. OSBORNE: Your Honor, may I make an offer of proof on this?

THE COURT: Very well.

MR. OSBORNE: Your Honor, I asked Dr. Cole did he receive any harrassment based on the fact that he was

black while he was an undergraduate student at the University of Mississippi. If the witness had been allowed to answer the question, he would have stated that on a regular basis white students would gather outside of his room and the rooms of other black students and threaten them with racial violence; that on many occasions, a note-notes would be left on his door, the door to his room with the word "nigger," with the statement "nigger go home" written on them; that on many occasions calls were made to the security, university security in an effort to prevent the white students taking acts of violence against blacks, and that the security force failed to respond.

The witness would also—I would ask him if there were barber shops on campus at the time he was a student and he [2592] would state that there were indeed barber shops on the campus of the—in the university buildings, but that the barbers would refuse to cut his hair and to cut the hair of other blacks. He would testify that almost nightly incidents occurred with racial overtones and that black students—because of the relectance on the part of the university security to provide them protection, that black students had to gather together and provide their own—provide protection for themselves and for other black students.

He would have testified about an incident that occurred in one of the Towers, the dormitories called the Towers, and in this particular incident he would have stated that a group of white students gathered outside of the room of one of the black students and would not allow him to leave the room. That calls were made to campus security and no response was received and that other black students had to come over and assist the student in leaving his room.

He would further have testified that when he and other black students used the bathroom, that other students had to stand guard at the door of the bathroom because white

students would come and threaten them and would turn the cold water off while they were taking showers and, as a result, they would get burned by the hot water; that because of this a student would have to stand guard when they took bathes.

[2595] * * * * *

MR. OSBORNE: Dr. Cole would further state that with respect to each particular instance of harrassment and racial threats, threats of racial violence, that complaints were made to the university administration and that on each occasion the administration failed to do anything to put a halt to the incidents of racial violence, of the threats of racial violence and the racial harrassment.

THE COURT: All right. That offer of proof is in the record. You may proceed.

MR. OSBORNE:

Q. Dr. Cole, you returned to the University of Mississippi for your graduate work; is that not true?

A. For the doctoral part of the graduate work.

Q. Okay. What was the atmosphere like when you returned as compared to the time you were there as an undergrad?

A. The most noticeable thing racially was the difference in the number of blacks students on campus. It was obvious that there were more than when I had – when I was an undergraduate and had left. That was the most noticeable thing.

Q. Were there any similarities between your two experiences?

A. There was a difference in the number of black students [2594] on campus, but I guess the attitudes, in my opinion, were a lot – were a lot similar. Blacks were still

pioneering. There were more undergraduates, but many of them who were graduate students were still going on untread grounds, and so attitudes were a lot similar.

And I guess another thing that was similar, to me, was the administration was still slow to move when an incident would surface themselves that were of a racial overtones when I thought that they probably should have moved a lot quicker and that that was because—because people respect leadership.

Q. When you say attitudes were similar, whose attitudes were you referring to?

A. I guess I'm referring to everyone's attitudes. We—the blacks still, for the most part, felt like they were struggling and the attitudes of many of the whites were—it was as if it was natural to be in opposition, so to speak, so—

Q. Opposition to whom?

A. It was as if black and whites were supposed—naturally opposed to each other. That was the attitudes on both sides. I'm saying that blacks' attitudes were a lot similar in that—that there were still things that we want, still black faculty questions, still staff and administration questions just asked before and I just felt white attitudes were a [2595] lot similar to that and perhaps can be characterized by: We've given you something, what more do you want.

* * * * *

[2603] Q. Dr. Cole, when you were an undergraduate student at Ole Miss, did you get the assistance—were you given any assistance by the faculty in your department in term of planning your career?

A. No. I—I was not. I do believe that opportunity for such existed, and after a fairly bad experience of

overloading me one semester, I decided to pretty much take that upon myself and planned on my courses that I would take and plan the action that I would take.

Most of it was in the catalog, so I could take the catalog and see what courses that I needed to take and level and be a lot more comfortable with myself.

Q. Was your experience any different from what other black students experienced at the University of Mississippi?

A. My experience was no different than any of the others. We learned fairly quickly from others who had preceded us that certain class combinations that advisors would often advise us to take would soon lead us down a destructive path, that is, we probably would not be able to take all of the courses in that combination in a given semester and do well.

So we would often talk among ourselves about what would constitute a load that probably would be too heavy for the average person, and we would talk among ourselves as to what [2604] instructors and what not that we might avoid.

Q. Based upon your experience as an undergraduate student at the University of Mississippi, and as graduate student at the University of Mississippi, would you encourage other blacks to attend the University of Mississippi?

A. For the most part, I could – I would have to give my own occurrences that I had gone there at the University of Mississippi, and – in that I am a Mississippian, and I would like to think that those who are coming behind me as Mississippians – for the most part, I would like to see them in the state.

I would have to almost dissect that question as to whether we are talking about graduate and/or undergraduate, and as far as a graduate student, I would encourage him to go to the University of Mississippi and relate my experience there.

As an undergraduate, I would have to probably advise him of experiences that I had, and in light of that I think I would shy away as much as possible as actually having encourage him and have him make up his own mind and just relate my experience.

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[2608] CROSS EXAMINATION

DON COLE

Q. Doctor, do I understand that your tenure at the University of Mississippi as an undergraduate student was in the 1960's?

A That is correct, sir.

Q. And your tenure at the University of Mississippi as a graduate student was when?

A. From 1977 until 1985.

Q. And you concluded that graduate study by indeed obtaining a PhD degree in mathematics from the University of Mississippi?

A. That is correct.

Q. And I did not catch where you are employed now?

A. I am employed in Fort Worth with General Dynamics Corporation.

Q. While a graduate student at the University of Mississippi, did you teach as well?

A. Yes, I did.

Q. And over what period of time did you teach?

A. I cannot remember the exact year that I started, but I would suspect over a three or four year period.

Q. Did you teach mathematics?

A. Yes, I did.

Q. How many courses in mathematics did you teach?

A. Again, I cannot remember the exact number, but I would [2609] suspect that at a minimum of eight mathematics classes.

Q. Did you teach white students?

A. Yes, I did, sir.

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TESTIMONY OF JAMES GILLEYLEN

[2659] THE WITNESS: My name is JAMES GILLEYLEN, G I L L E Y L E N.

THE COURT: All right, sir.

DIRECT EXAMINATION

BY MR. OSBORNE:

Q. Mr. Gilleylen, for the record, would you state your race, please?

A. Black.

Q. Where do—where are you originally from, Mr. Gilleylen?

A. I was born in Amory, Mississippi.

Q. Where did you attend high school?

A. I attended high school at Amory High School in Amory, Mississippi.

Q. Did you subsequently attend college?

A. Yes, I did.

Q. Where did you attend college?

A. I attended college at the University of Mississippi.

[2660] Q. Did you also attend graduate school?

A. Yes, sir. I initially attended the University of Mississippi in 1976.

I graduated in 1980 with a bahelor's degree in political science and history.

I subsequently attended graduate school at the university, graduating in May of 1983 with a master's in urban and regional planning.

Q. All right. What year did you finish high school?

A. I finished high school in 1976.

Q. In what month?

A. In May of 1976.

Q. All right. And when did you enter the University of Mississippi?

A. I entered the University of Mississippi in September of 1976.

Q. All right. And when did you complete your undergraduate degree?

A. Completed the undergraduate degree in May of 1980.

Q. And you said you majored in political science?

A. Political science and history.

Q. All right. While you were in—while you were an undergraduate student at the University of Mississippi, did any incidents occur which you felt were directed towards you that you felt were—felt occurred because of the fact that [2661] you were black?

MR. RAY: Object as irrelevant, unless it relates to State action, Your Honor.

THE COURT: Sustained.

MR. OSBORNE: Your Honor, if you allow me to develop this line of questioning, I can relate it to State action.

THE COURT: Well, all right. You—I will reserve ruling on it and allow you to develop that line.

MR. OSBORNE:

Q. Mr. Gilleylen, can you answer the question?

A. Okay. Could you repeat it again for me?

Q. While you wsere an undergraduate student at the University of Mississippi, did any incidents occur which was directed towards you that you felt occurred because you are a black person?

A. Yes, sir. Beginning with my initial entry in 1976, there were particular problems in terms of the freshman English program.

I have a particular concern that I and other black students generally received no higher grade on our English themes higher than C. That was very consistent.

There were particular problems of individual themes in which we submitted, the themes in freshmen English program being primarily a writing, comprehensive writing course, where we would submit those themes to the teachers. We would [2662] receive a C or lower grade without any explanation or very little explanation as to why we were receiving a C, D or F.

In particular, I can relate to one particular theme that I submitted. We were asked to compose a theme with a topic related to something that had occurred during our early life, something that had profound impact upon our life.

Now, being a product from the early integration of the 70's, Freedom of Choice Plan in Education, I selected as a topic the integration program.

Particularly, I related to my first year in fifth grade as a student in a predominantly white school under the Freedom of Choice Plan which I entered.

I wrote a theme basically talking about the textbooks that we used, which were the textbooks that the predominantly white schools had used previously, that were all worn out and outdated, we received them in the predominantly black schools.

Particularly, I remember studying, trying to bring myself up to date using a fifth grade textbook that summer before entering school. Those textbooks were so much outdated, it did not help me any.

I wrote the theme and I received an F grade on that particular theme.

Q. Who was your instructor?

A. A graduate instructor named Mrs. Stewart.

Q. A black or white person?

A. She was a white person.

Q. After you received an F on this particular paper, did you haVe a conference with Dr. Stewart?

A. It was not Doctor, it was Graduate Stewart. It was graduate instructor Ms. Stewart.

Q. Ms. Stewart.

A. Yes. I did. I asked her for specific feedback as to why I received an F, because there were no marks on the paper, with the exception fo an occasional verb tense or grammatical error, but there was no real feedback. I asked her for the feedback and she basically—

She said, I can tell you a couple of things. She said, one, black people have an inherent problem in terms of their mastering the English language. You have problems in terms of being able to write and speak. Problems with the spoken language, as well as the written language.

She told me that automatically I got a D when she read my topic, and that it went down hill from there.

Q. And what was your topic?

A. My topic was Integration and the Freedom of Choice Plan for Education.

Q. All right. Now, did you take any foreign language while you were in undergraduate school?

A. Yes, sir, I did.

Q. All right. Can you relate any incident related to your [2664] foreign language course, what you felt occurred because you were black?

A. Yes, sir. In particular, I had a—I had a French course in the Liberal Arts Department. You were required to take twelve hours of a foreign language.

This was under a Ms. Black, a French instructor, taking a first semester French course. I was having particular problems in terms of the subject/verb tense and its relationship.

I went to her and asked her for – after scoring poorly on the first test, asked her for some particular pointers or additional assistance in terms of making more than I was able to master that course.

She said that she could give me very little direction because, one, we all understand that black people have problems with the English language, and, therefore, it is not expected that we would be able to master a foreign language.

What she suggested to me, in her opinion, she said was her best suggestion is that I select a major that did not require a foreign language as a requirement and, therefore, I would not have to do any – I would not have to deal with that sort of problem.

Q. Mr. Gilleylen, you also attended graduate school at the University of Mississippi?

A. That's correct.

A. And did you have any particular problems during your [2665] graduate experience which you felt related to the fact that you were black?

A. Yes, sir. The more overt type actions actually took place in graduate school, keeping in mind that graduate school was in 1980 through 1983.

I had particular problems with a professor named Clyde Cook.

Q. What department does he work in?

A. Clyde Cook was a professor of the Urban Regional Planning in the Urban and Regional Department.

Q. And that is the area in which you got your master's degree?

A. That's correct.

* * * * *

[2678] Q. Now, you subsequently attended a graduate school at Ole Miss, is that not true?

A. That's correct.

Q. All right. And what degree did you receive?

A. I received a master's in urban and regional planning.

Q. Did you experience any problems while you – when you attended graduate school, which yu felt were directly related to the fact that you were black?

A. Yes.

Q. Okay.

A. Directly related to the fact that I was black, and also having just completed my tenure as Black Student Union President and having involvement in the student demonstrations and so forth, I felt there was a direct correation between my activities there, as well.

Q. Did you have a professor in graduate school named Dr. Cook?

A. I had a professor named Clyde Cook. He was not a PhD.

Q. Did you have any particular problems with Dr. Cook – with Mr. Cook which you felt related to the fact that you were black?

A. Yes, sir, from the very beginning.

Q. Okay. Could you relate those to us?

[2679] A. Just a couple of weeks after I had entered the program, each student was charged with the responsibility of developing an economic base study.

An economic base study was a comprehensive report of a city or an area and its economic stability, everything from employment, race, population, demographic type research in doing comprehensive projects as to what could be expected for that community in terms of industry, population and economic stability.

Much of the data that we needed to have to complete that study, we would be given a three-hour credit for it. The report had to be collected from the census data.

Mr. Cook informed the class, of which I was a part of, on about the second week of class that he didn't want us to

place too much credence in the census data, because it was collected by a bunch of—in his words—"unemployed illiterate black folk," and then proceeded to tell me, being the only black student in the class, that perhaps Mr. Gilleylen can further expand on that since he is much closer to the situation than any of the rest of us.

Beyond that, there were instances in which I prepared a comprehensive or a research paper. The research paper being on demand responsive transit, in which I was to receive three hours credit for it.

I turned into Mr. Cook a typed report of about twenty-five [2680] to thirty pages. I had used approximately thirty-five to forty references.

Mr. Cook called me into his class—I mean, into his office and told me that my grade was an F. When I asked him why I had received an F, after flipping through the report I saw no comments; he said, well, I am not really fully prepared to give you a great deal of comments. What I would like for you to do is go over to the library and check all thirty-five or forty references so I can review them, because my gut reaction is that you have plagiarized your paper.

I asked him, give me some specific instances throughout the paper in which it would lead him to that conclusion, and he told me—he said, I don't really have any specific instances, but I do know that black folk don't write that well, so you need to go over and check the reference material in order for me to show you specifically where you have taken quotes without indicating that they were quotes in your paper.

I refused. I pursued the issue with the Director of—I mean with the Department Head at that time, who was Dr. Robert Jester.

Dr. Jester reviewed the situation and a year later I received a C grade on the paper.

Q. Were there any other incidents involving Dr. Cook which related to the fact that you were black?

A. Dr. Cook constantly did things like—

[2681] Q. Mr. Cook?

A. Mr. Cook. He did things like—he did things like racial slurs. Always in the hallway, so it was loud enough for me to hear but no one else to hear.

Things like I am coming into class and he says, well, I guess we can start, the "nigger" has arrived.

Those sorts of things. Really attacks on me, personally, in terms of I am walking down the hall, and making other comments like, you resemble the "Fat Albert" character on the television show and things of that nature, because he obviously had a knowledge of my involvement in the Black Student Union, and during class times in referring to things—

For instance, he was discussing the Iranian hostage situation at that time, and he asked me in class whether or not the Black Student Union would be prepred to have a sit-in for the Ayatollah and perhaps get the hostages home.

Or, for instance, when he had accused me of plagiarizing my paper, he wanted to know if perhaps the Black Student Union was going to be coming over to his office and have a sit-in until he gave me a grade.

He returned papers with things like, here is your paper, with and—have you received a C, with a C drawn from the top of the paper to the bottom of the paper. Here is your C, for colored, thoses sorts of things.

* * * * *

[2683] Q. Now, how many graduate courses did you take from Mr. Cook?

A. Of the total fifty-four hours requires, I only took six hours under Mr. Cook, six hours of required courses

work under Mr. Cook, he being the only professor in the department that taught those courses of subdivision and zoning.

Mr. Cook related to me on several occasions that I would never become a professional planner, that I could forget about pursuing the field, and it gave me particular pleasure when I saw him about a year ago to be able to tell him I was an Assistant Director of Planning and Development in the City of Dallas with a staff of about sixty-eight persons.

Q. What grade did you receive from Dr. Cook in the two courses that you took from him?

A. I received a C and a D in those courses.

Q. What is your present position?

A. I am currently Assistant Director of Planning and Development for the City of Dallas. My activities include all the development activities, particularly subdivisions, zoning, development and coordination, Boards of Adjustment and the comprehensive rezoning of property. Particularly, two of those areas having been Mr. Cook's expertise in the two courses that I had to take, zoning and subdivision.

Q. Did you receive any assistance from the placement office at the University of Mississippi in securing that particular position?

[2684] No, sir. There was absolutely no assistance offered. Our Placement Department was a real problem.

Everything from when companies would come to the university to visit to interview students, in many cases we did not know that those companies were visiting.

Q. When you say "we," who are you referring to?

A. Myself and other black students. There was a system you could go by the Placement Office and you could explain to them what your interests wsere, you completed a placement file, you talked with one of the placement

counselors. You indicated what your specific interests were, and then the intent was when companies were visiting the university, that you would be made knowledgeable of their visiting and would have an opportunity to schedule interviews with those companies.

I had a particular problem in that being in a technical field, the public sector did not generally visit the university, so my question went even further, could they assist me in terms of identifying employment opportunity that I might pursue.

But, I, and many other black students just simply had to leave the university and pursue employment on our own. There was not a real opportunity to get a great deal of support from your advisors, in terms of them assisting you in not only in developing your career track through the academic programs but in terms of pursuing career opportunities after you had [2685] graduated.

As a result, I worked within the state as Executive Director of the Oxford Housing Authority, particularly during my tenure in the graduate program, which I completed the master's program and was Executive Director of Housing Authority and finally pursing the employment after graduation with the City of Dallas on my own.

Q. Now, were there any differences in the way the Placement Office responded to black students and the manner in which the Placement Office responded to white students who were seeking interviews.

A. I cannot really determine whether or not there was a difference in terms of response. I do know that my white counterparts knew when the companies were coming to campus, and there were no public notices on the placement bulletin board in many cases that those companies were there, but yet those persons would show up in class.

For instance, when I was in the urban regional planning graduate program, particularly emphasis in my program, I

had fifty-four hours placed on management. I, therefore, had taken several courses in the business school.

I found it interesting that white students knew exactly when companies were coming to campus and were able to interview with those companies, and yet black students did not seem to have any indication that they were coming. [2686] Particularly, we would sometimes meet blacks who were representatives of those companies, who would walk the campus and meet black students and say, look, I am here interviewing for IBM, are there any sisters and brothers in the university system with this particular degree or pursuing this particular degree, let them know that I am over here interviewing and that we have a particular interest, as we have indicated to the university, to recruit minority students.

Now, at that time, of course, many of the companies, expecially larger companies, IBM and Texas Instruments and some of those were pursuing minority students.

Q. Were any of your concerns relating to the failure of the Assistance Office in assisting blacks in securing employment ever reported to the university administration?

A. Whenever we discussed the problems with the Chancellor and the staff, Dr. Fortune generally indicated that the—he would indeed pursue it, that he would indeed look into the matter, that he was disappointed that that would either occur or that we—or that we had the impression that it was occurring, and in any case that he was going to work very hard to resolve the problems and find out what was occurring.

I only know that we did not reach a resolution.

Q. Did you get any feedback from Dr. Fortune with respect to the concerns that you raised?

A. In particular, I know that while in graduate school in [2687] 1982, the university under Dr. Fortune attempted in part to address similar concerns.

One in particular was that—that students in the computer science program interview with Dr. Fortune and the professors in that department were beginning to get some access to that process, but it was not through the Placement Office.

It was generally through conversations between Dr. Fortune and professors in those departments.

Q. All right.

A. Our major concern being we wanted to respond to the Placement Office, although we were encouraged by the individual efforts of certain professors.

[2689] * * * * *

Q. Okay. Now, did you experience any, what you call, back lashes as a result of your activities as BSU president?

A. During my tenure as BSU president, we were heavily involved in student protest and particularly during the [2690] Communicative Disorders problems that we were experiencing.

There were several times which I feared for my safety and the safety of other persons on the Executive Council. There were incidents of cross burnings on the dormitory door, paper crosses, my brakeline being destroyed on my automobile and I had to start driving other students' cars so that I would not be at personal risk in terms of any repercussions that might be occurring.

We contacted the campus security, who said they looked into the incident. They were not encouraging in that one of the officers told me that that type of activity could be expected because—because of the activities that had occurred, there were obviously students out there that disagreed with the position that we were taking and, obviously, there was going to be some radical elements on each side that were going to take matters into their own hands. The encouragement that he gave me was to be more careful.

Now, according to the Chancellor, because we were particularly concerned that when black students take a stance that we be afforded adequate protection. Again, the Chancellor and his staff indicated that they would indeed get with campus security. But, again, we continued to receive the harassing phone calls and the racial slurs as we walked down the sidewalks and just general harassment.

Q. Did you get any feedback from the Chancellor's office to [2691] the complaints that you made?

A. Feedback in terms of resolution, there was none. Feedback in terms of they would deal with the security and to try to find out and get to the bottom of the causes, they would do that, but no particular resolution being reached.

* * * * *

[2692] CROSS EXAMINATION

[2693] * * * * *

Q. Thank you. You mentioned requests that your group made, I believe, relating to university procedures in hiring black professionals and staff members, didn't you?

A. When you reference my group, are you—

Q. Which group were you talking about when you said you had approached the university to talk to them about black faculty?

A. Okay. I had specified I believe earlier the Black Student Union.

Q. Okay. And you did make such requests and overtures to the university, didn't you?

A. That's correct.

* * * * *

Q. And I turned to Appendix E of that Implementation Report of the Plan of Compliance of the University of Mississippi. [2694] Does this page in Board 100 appear to be a memo, an interdepartmental communication to signatory officers from Porter L. Fortune, Chancellor of the

University, relating to affirmative action efforts to recruit black professionals?

A. Yes, that's the heading.

Q. What's the date on that?

A. It's dated July 28, 1980.

Q. Is that during or very near the time when you were the president of the Black Student Union?

A. Actually July 28, 1980, my term as president of the BSU would have ended. My term ended as of May, 1980.

Q. So it was very shortly after your term, then, during which you requested certain procedures be enacted, is that right?

A. Would you repeat your question, please.

Q. Yes, sir. You had said earlier, I believe, that you approached the University requesting that certain procedures and policies be adopted with respect to recruitment of black professionals and faculty, didn't you?

A. During my tenure as Black Student Union president, we had presented on several occasions requests to the university that there be an increase in overall recruitment of black students and so forth.

Q. That's right. And July 28, 1980 was soon after your tenure ended then; is that right?

A. That's correct.

[2696] * * * * *

Q. Do you see that this memo included a list of required procedures for recruitment of black professionals at the University of Mississippi?

A. I believe the third paragraph does say (reading), I'm repeating the list of required procedures given in my January 15th memorandum –

Q. And could you read –

A. And adding a number six.

* * * * *

Q. Yes, sir. Could you read the very first of the required procedures to the court, please?

A. It says (reading), black students and/or black staff members are to be appointed to search committees and opportunity is to be provided to have black candidates visit with black students while on campus.

Q. And at the very bottom of that policy document, doesn't it say that it's most important not only that signatory officers keep these procedures in mind but also that the chair of search committees be made aware of them?

A. That's right.

Q. In fact, students, black students were included in search committees looking for black professionals and faculty, weren't they?

[2697] * * * * *

THE WITNESS: (Continuing)

A. I believe what I indicated to you previously is that a part of our list of demands, we had indicated that we wanted greater involvement in terms of the hiring process, to be involved in both the recruitment of black faculty members as well as to be involved in the actual communication and interaction with perspective faculty members as they visited on [2698] campus.

Q. And are you aware of whether such actions and procedures were undertaken by the University after you made that request? Do you know whether that request was fulfilled or –

* * * * *

A. I guess in response to your question the only thing I can say is that after 1980 I was not actively involved and was not the official representative for the Black Student Union. Being in graduate school I did not have the involvement. If I answered the question, then I can – I can't speak from my personal experience that they were or were not involved. I can tell you I was not involved.

Q. So from 1981 to 1987 then you don't have knowledge whether the kinds of things you were requesting actually occurred; is that right?

A. That's correct. From 1980 I was not involved and I do not have any direct input to give you as to whether or not they were or were not involved.

Q. Would you turn in Board 100 that I handed you, page 89, I believe it is, please. And tell me when you reach that page, [2699] and let me make sure we're on the same page.

* * * * *

Q. Okay. Have you had a chance to look over this page?

[2700] A. Yes, sir.

Q. Doesn't it indicate that at least one one particular occasion a group of black students and faculty and staff members attended a reception for a gentleman in the Chancellor's dining room?

A. Yes, sir. I believe it does indicate that on Monday, May 4, 1981, at four o'clock p.m., fourteen black students and faculty members—

Q. And that that gentleman was a president of an organization composed of black faculty members that worked to recruit minority faculty to Mississippi State and to help new black faculty members' transition to life at Mississippi State?

A. I believe that is correct.

Q. Is that correct?

A. Yes.

Q. And, in fact, doesn't it indicate that this was an activity undertaken by the University of Mississippi?

* * * * *

A. Yes, sir, it does indicate—it's on official stationery.

* * * * *

Q. Mr. Gilleylen, what was the Student Plannint Association when you were in school?

A. There was a—we have a professional organization called the American Planning Association. The American Planning [2701] Association has various chapter groups throughout the state, throughout the nation. We, at the time, at the University had a local chapter called the American Planning Association and it was our student chapter.

Q. Who comprised that group?

A. The students in the program.

Q. Well, did you have any white students in that group?

A. Yes, sir.

Q. Did you have black students also?

A. Yes, sir.

* * * * *

Q. Who was elected president of that group while you were there?

A. Any particular year that you were—

Q. Were you ever elected to serve as president of that group?

A. Yes, I served as president of the group in 1980—to the best of my knowledge, I believe it was 1981 or 1982.

Q. Yes, sir.

A. I'm not real sure.

Q. Mr. Gilleylen, you mentioned the efforts you made to get the University to be responsive in attempting to recruit black students, didn't you?

A. That's correct.

[2702] * * * * *

Q. This has been marked for identification as Board 140. Mr. Gilleylen, have you seen this document before?

* * * * *

Q. I won't question you specifically about the document then, but you have mentioned previously that a black gentleman, Ben Williams, had been elected by the student body of the University of Mississippi as Colonel Rebel, didn't you?

A. Yes, that's correct.

Q In fact, by that time there were a lot of other achievements that black students at the University of Mississippi had, weren't there?

A. There were other achievements, yes.

Q. For example, we have black students in the Old Miss Hall of Fame. Are you aware of that?

A. Yes, sir.

Q. Are you aware that you had black students on the Chancellor's Honor Roll?

A. Yes, sir, I believe we did. I don't know any specific individuals that I can relate to.

Q. Do you know we had black students on the Dean's Honor Roll?

[2703] A. I'm sure we did.

Q And in Who's Who on American College Campuses or whatever that organization is?

A Yes.

Q. And black students in Old Miss in ODK and Mortar Board, the honorary societies?

A. Yes, sir.

Q. You knew that. And you knew that Rose Jackson had served as the president of the campus-wide Association for Women Students. Did you know that during your tenure?

A. I believe she did. I believe she served in 1979.

Q. 1978-1979. And you know, don't you, that that's a campus-wide organization with students of all races in it, don't you?

A. That's correct.

[2705] * * * * *

Q. One last thing, Mr. Gilleylen. You spoke about being unaware of when companies were coming to campus to seek new employees. Do I remember that correctly?

A. Yes, I was speaking specifically of my knowledge of particular companies coming.

Q. But you say white students knew about the companies coming to campus, is that right?]

A. I said that there were white counterparts who were in classes with me that were aware of the companies coming to town.

[2706] Q. Did you ever read the "Daily Mississippian"—

A. That's correct.

Q. —when you were a student at Ole Miss?

A. Yes, I did.

Q. And don't you recall that every time a company came to interview through the personnel, through the placement office, they advertised—

* * * * *

Q. Do you recall the advertisements when companies were coming to campus to interview through the placement office that were regularly placed in the "Daily Mississippian" when you were a student there?

A. In terms of regularly placed, I'm not sure. In terms of my reviewing them, yes, I did. I might also add that I had no way of comparing that to the actual number of companies that actually attended the University or whether or not that really gave me specific knowledge of

every individual company that visited the University.

Q. Weren't the companies listed in the "Daily Mississippian" when they came to campus to inverview you?

A. Yeah. What I jsut said was that, yes, there were companies listed in the "Daily Mississippian."

[2707] * * * * *

TESTIMONY OF LINDA CAMPBELL

THE WITNESS: My name is Linda Campbell, C A M P B E L L.

DIRECT EXAMINATION

BY MR. OSBORNE:

Q. For the record, state your name, please.

A. Linda Campbell.

Q. Oh, I mean your race. Would you state your race?

A. Black. I'm sorry.

Q. Did you attend the University of Mississippi?

A. Yes, I did.

Q. When did you attend Ole Miss?

A. From 1975 until 1979.

[2710] Q. Where did you attend high school?

A At North Panola High School in Sardis, Mississippi.

Q What did you major in at the University of Mississippi?

A. Speech pathology.

Q. Did you receive a degree in that particular major?

A. Yes, I received my Bachelor's degree in 1978 and my Master's in 1979.

Q. Okay. Have you done further studies since you left the University of Mississippi?

A. Yes, I have.

Q. And where did you do this particular study?

A. I received my doctorate in speech pathology at Howard University.

Q. Are you presently employed?

A. Yes, I am.

Q. Where?

A. At Southern University in Baton Rouge.

Q. What did you do at Southern?

A. I'm assistant professor in the area of speech pathology.

Q. While you were an undergraduate student at the University of Mississippi, what was your grade point average?

A. Approximately three point twenty-five on a four point scale.

Q. Okay. Now, while you were an undergraduate student at the University of Mississippi, did you have an experiences [2711] —did you experience any specific incidents of racial discrimination related to your academic performance?

A. Yes, I did.

Q. Can you relate that to us?

Q. There were a number of professors who, on the one hand, attempted to put all the black students who were speech pathology majors into the clinic, enroll them as patients, as such. There were a number of individuals who consistently and systematically failed black students. We were told that black students could not talk and, therefore, should not major in speech pathology and we were counseled to seek other areas for majors.

Q. Can you give me the name of any particular professor in the Communicative Disorders Department who would enroll black students in therapy and treat them as patients?

A. Yes. One professor was Mrs. Julie Wentland.

Q. What was her position?

A. She was assistant professor and clinical director.

Q. What were her duties and responsibilities as the clinical director?

A. She taught prerequisite courses for students which enabled the students to enroll in clinical practicum. She assigned students specific clients. She assigned for the students also supervisors for clinical practicum.

Q. Did you take any particular classes from Mrs. Wentland?

[2712] A. Yes, I did.

Q. How did you do in her class? What grades did you receive?

A. Primarily C's, and the C was a good grade from her as a black student.

Q. What do you mean by that?

A. For her, she had a history of repeatedly failing blacks automatically. Her courses were courses that were known to determine whether or not a student would make it in that particular department, and if you received a C that was good. Most students repeatedly took the courses several times and either dropped out of school or transferred into other majors and succeeded.

Q. When you say most students, who are you referring to?

A. Most black students.

Q. Can you relate any specific, any other specific incidents involving Mrs. Wentland which shows she treated black students differently from whites?

THE COURT: What did you say her name was?

THE WITNESS: Julie Wentland.

THE COURT: How do you spell that?

THE WITNESS: W E N T L A N D.

THE WITNESS: (Continuing)

A. For her, one particular instance, and this I experienced as well as some other students, other black students would also experience, she would verbally attack us or

verbally [2713] criticize us for supposedly shortcomings, but she would criticize us in front of patients or patients in the clinic, as well as in front of other students. She would accuse us of being late, not being prepared, not adequately carrying out our tasks. And when she discovered instances when she had made a mistake, she still refused to apologize.

MR. OSBORNE: (Continuing)

Q. Okay. Now, can you give me—would you give the Court, please, an example of the things necessary to complete the degree that you were pursuing.

A. Okay. A part of the degree, the certificate of clinical competence is the license that is awarded by the national association which is the American Speech Language and Hearing Association. This particular certificate allows a speech language pathologist to work in all settings, including private practice.

In order to meet the requirements as indicated by the American Speech Language and Hearing Association, the student had to receive a Bachelor's and a Master's degree in speech language pathology, the student had to obtain a minimum of three hundred client contact hours with particular patients with specific speech and language disorders. These client contact hours consisted of actual one-on-one work, okay, with a particular client, and this included evaluations and designing treatment programs for individuals with speech and language [2714] difficulties.

The requirements also included passing a national examination upon completion of the Master's as well as completing a clinical certification year which is called a CFY career. This is a year's internship, post-Master's, under the supervision of someone who is certified by the national association.

Okay. Once an individual achieves all these criteria, the person is awarded a certificate of clinical competence.

Q. Now, how—let me strike. Did you experience any difficulties in being able to complete your requirements for your degree while you were an undergrad student which you felt might have been related to the fact that you were black?

A. Yes, I did.

Q. What difficulties did you experience?

* * * * *

THE WITNESS: (Continuing)

A. Okay. Mrs. Wentland, a person, like I said, she was the [2715] clinic director, she was a person who taught the prerequisite courses. You had to pass her courses in order to get into the clinic. And it is the clinical practicum requirements that are the most difficult to obtain because of the fact that those hours are actual client contact hours as such.

Mrs. Wentland is the individual who supervised me during my first clinical practicum. She assigned the client and she would schedule the time for staff meetings as well as the time for actual client contact for therapy.

She, on many occasions, in front of other students in the department as well as parents and other faculty members accused me of either not turning in information on time or of inadequate, quote, performance, inadequate performance, as well as not being prepared.

Q. Were any of these accusations true?

A. No, they weren't. And on many occasions, some of the other—the other white students would indicate that, no, it wasn't Linda, that was my report that I didn't put on your desk by eight o'clock. And they would say that, and I would be standing there but she still refused to—

MR. STEPHENSON: Your Honor, object to what others said or did.

THE COURT: Overruled. The objection was to what others said or did. Objection is overruled.

THE WITNESS: (Continuing)

[2716] A. Even when the students were there, and they indicated that it was their report, maybe, that wasn't turned in, she still wouldn't apologize to me.

MR. OSBORNE: (Continuing)

Q. Would she say anything to white students who indicated that they were responsible for the late reports?

A. No. But she would make the statement in the presence of them but the statements were made to me.

Q. Now, were you required to—I think you said you were required to have a minimum number of patient contacts?

A. Uh-huh.

Q. Now, who was responsible for ensuring or assigning you to patients?

A. That was Mrs. Wentland.

Q. Did Mrs. Wentland make any difference between white and black students in terms of patients' assignments?

A. Yes, she did. There are certain clients with communication disorders that are rare. They are harder to get or harder to come by, I should say. She would assign these particular clients as a priority to the white students, which, in essence, meant that they could get the specified number of hours that they needed as far as treating and diagnosing individuals with those types of disorders, which for them, meant they could graduate earlier than us because of the fact that we had to wait in line before we could see those clients.

[2717] Q. Now, were there any other things that were assigned or required by Mrs. Wentland in which she made a difference between black and white students?

A. She also assigned the number of clients differently between black and white students. The black students for the most part only had one or maybe two clients per semester. And the number of clients per semester is significant because of the fact that a portion of the graduation requirements is stipulated based upon meeting specified quotas as indicated by the American Speech Language and Hearing Association.

Q. Okay. Now, did Mrs. Wentland ever give you or any other students any assignments in writing assignments?

A. Yes, she did.

Q. Was there any difference made in the nature of the assignments given black students as opposed to the assignments given white students?

A. Yes, there were. There were many occasions in which a black student might be assigned with a white student. The white students were given the portion of the assignment that was the most objective. That was the portion that consisted of a guideline that she and her husband had developed. It was more of a fill-in-the-blank related to specific information that should be collected from a client. The black students were given more subjective portions of a report which were more difficult to write because of the fact that there were [2718] no fill-in-the-blank portions as such. The portions that the black students were assigned were those portions that varied, depending upon the specific behavior exhibited by the client rather than specific information that's reported from a test.

So it was easier for white students to make a higher score on the clinical writing than for the black students because all of the – because the white students only had to fill in the lbanks, for the most part, numbers and client names, as compared to the black students who had to write up an entire section. And because we had to write up

sections on our own, there was a greater probability for us to receive lower scores in clinical writing.

Q. Did you have any other – were there any other incidents involving Mrs. Wentland in which she treated black students differently from whites?

A. Yes. At one point she was either counseling black students to choose another major or enrolling them in the therapy because she said that black people couldn't talk and, therefore, if we were going to work as speech language pathologists we needed to receive therapy ourselves.

Q. Okay. Were there any other faculty members in your particular department who treated blacks differently from the manner in which they treated white students?

A. Yes, there were.

Q. Who were they?

[2719] A. One was Dr. Thomas Wentland

Q. Was he related to Mrs. Wentland?

A. Yes, he was.

Q. Okay.

A. As her husband.

Q. What was his position?

A. He was chairman for a period of time of the department.

Q. Can you relate to us the incidents involving Dr. Wentland?

A. Dr. Wentland, being the chairman, he was the one who reviewed all student grievances. He was the person who assigned graduate student fellowships.

* * * * *

Q. Mrs. Campbell, did you have personal knowledge of conduct [2720] that Dr. Wentland engaged in?

A. Yes, I do.

Q. What conduct is it that you have personal knowledge of?

A. It was related to financial assistance.

Q. And what conduct did he engage in that showed he treated you and other black students differently from the manner in which he treated white students?

A. Well, the amount of money I received was significantly lower than the amount of money the other black students received as compared to the amount of money that the white students received. It was also determined that the monies that we were receiving were supposed to have been monies for fellowships for minority students and the white students were the ones who received the bulk of the money.

* * * * *

Q. Dr. Campbell, I believe you stated that you were awarded less than your white colleagues. How much money did you receive?

A. Approximately a thousand dollars per semester. A [2721] thousand dollars for the academic year.

Q. Okay. And this was when you were in graduate school?

A. That was when I was in graduate school.

Q. How much did your white colleagues receive?

A. Approximately two thousand. Two thousand to twenty-five hundred.

Q. And these were funds awarded by Dr. Wentland?

A. That's correct.

Q. Other than Dr. Wentland and his wife, Mrs. Wentland, were there any other faculty members in your particular department who treated black students differently from the manner in which they treated white students?

A. Yes, there were.

Q. Can you give me their names?

A. One is Mrs. Julie Walton, and the other person is Dr. Carol Juarez.

Q. Did you have any specific incidents involving either one of these particular professors?

A. Yes, I did.

Q. Can you relate that to us?

A. Okay. Dr. Carol Juarez was a particular professor who refused to talk to black students. When she did talk to black students, the stipulation was that I had to, as well as the other black students, had to sign a statement which, in essence, summarized the topic of discussion or the topic of [2722] the conference. She had the option to choose a person to sit in on the conference and the conferences always had to be planned. The conferences were taped and she typed transcriptions which we signed after the conferences, but these were only done for the black students. None of the white students had to do this.

Q. Okay. Now, were there other instructors who engaged in similar conduct?

A. Yes, there were.

Q. Who were they?

A. Okay. Mrs. Julie Walton was one.

Q. What specific conduct did she engage in?

A. Mrs. Walton, at one point, and specifically during a period of time after Mrs. Wentland had left, became clinic director, okay?

Q. Okay.

A. And Mrs. Walton assigned students to clinical—assigned black students to clinical practicums differently than she assigned white students. And by differently I'm referring to the number of clients we had scheduled. The types of disorders that the clients had scheduled.

Mrs. Walton also taught one of the prerequisite courses to enroll—prior to enrolling in the clinic.

[2723] * * * * *

Q. How did black students fair, Dr. Campbell, in Mrs. Juarez' class?

A. Ms. Juarez or Wentland?

Q. Who–

THE COURT: Walton

THE WITNESS:

A. Walton, I'm sorry.

MR. OSBORNE:

Q. Walton.

A. Mrs. Walton failed all black students. If you didn't fail the course, the highest possible grade was a C.

Q. Were there any other problems that black students experienced with Mrs. Walton?

[2724] * * * * *

Q. Dr. Campbell, the testimony you're about to give, is it based on personal knowledge?

A. Personal knowledge.

Q. Okay. Can you proceed?

A. Yes.

Q. Okay.

A. There were a number of students, black students who failed Mrs. Walton's classes. We–as well as–the black students would go back, repeat the courses, but she would fail them again and again. The black students, after a period of time, either changed majors or went into–or like I said, or were failed from school. Okay.

Q. Did you attend graduate school at the University of Mississippi as well?

A. I did.

Q. How did you–what was your grade point average on the courses you took in graduate school?

A. Approximately three point five.

Q On a what basis?

A. Four-point-0 scale.

Q. Were there other black graduate students in your program at the time you attended graduate school at Ole Miss?

[2725] A. Yes, there were.

Q. Who were they?

A. There were four, Lydia Vaughn, Deborah Reynolds, Billie Green and Patricia Cole.

Q. What are the requirements for completing that Master's program?

A. Completion of thirty-six hours and successfully passing written comprehensives and an oral exam as well as completing the clinical clock hour requirements.

Q. Do you have to complete—can you give us the order in which you must complete the requirements?

A. Okay. The courses in clinical practicum are usually simultaneously. The comps are written, are taken at the end of the semester, at the end of your last semester. And after comps, if you successfully pass comps, the student is then eligible to take the orals.

Q. Are you required to successfully complete your courses before you can take the comprehensive?

A. You can take the comprehensive exams a semester before you finish all your courses.

Q. Now, did you have any problems—let me ask you this, what does the written comprehensive exam consist of?

A. It's an overview of knowledge of communicative disorders, and this is knowledge of communicative disorders based upon the courses that each student has taken.

[2726] Q. You did take the comprehensive examination?

A. Yes, I did.

Q. And the exam that you took, had you been exposed to information on the materials covered by the exam?

A. Yes.

Q. And in what manner?

A. They—the material covered by the exam only consisted of items or materials that was covered during the courses.

Q. You had already taken the exams?

A. I had already taken the courses.

Q. Had you taken examinations in the areas of your comprehensive?

A. That's correct.

Q. Had you successfully completed the examination?

A. For the courses?

Q. Right.

A. Yes, that's correct.

Q. Did you have any—did you experience any difficulties in completing or passing the comprehensive examination?

A. Yes, I did.

Q. What difficulties did you experience in that respect?

A. Well, for the comprehensive exams, out of ten questions I made zero percent, meaning that I failed all ten.

Q. Did any other black students take the comprehensive examinations at the same time you took them?

[2727] A. Yes, two others.

Q. How did they fair?

A. One student, Debbie Reynolds, passed two of the ten questions and she made, in essence, twenty percent, and the other student, Billig Green, passed five of the ten questions and she made fifty percent.

Q. Did any qhite students take the exam, the comprehensive, at the same time you and the other two blacks took the exam?

A. Yes, they did.

Q. How did they fair?

A. There were three white students who took the exams at the same time and they all passed.

Q. And how did you grade point average compare to the whites who passed?

A. Higher than the three who took it at the same time.

Q. What about the other two blacks, what kind of grade point average did they have.

A. Well, above a three-point-0.

Q.Now, prior to the time you took the comprehensive examination, were you offered employment by the University of Mississippi?

A. Yes, I was.

[2731] * * * * *

Q. Now, I ask you if prior to the time you took the comprehensive exam, you were offered employment by the University of Mississippi?

A. Yes, I was.

Q. And did you accept employment with –

A. No, I declined the position.

Q. Why did you decline the position?

A. I was told that the position would entail me being [2732] assigned to a created position. I would be listed on the University's roster as a faculty member which would, according to the department chairman, aid the department relative to satisfying the demand of the black students to hire a black professor; however, I would be listed on the roster an employed by the university, but I would be placed in a public school conducting therapy in Holly Springs, Mississippi, which is about thirty-five to forty-five minutes away. I would have no contact with the students or no contact on the main campus, but that the reward for me would be the ability to put on my resume that I had been once employed by the University of Mississippi.

Q. What about the salary you were supposed to receive?

A. Well, because this was a special position that they were creating, the salary that I would receive would be less than what I would receive if I went and just got the position on my own.

Q. Now, how many times were you contacted about this?

A. I was contacted repeatedly. I would say the department chairman repeatedly suggested that I take the position as well as several of the faculty members. I would say probably about ten times.

Q. Now, after you refused to accept the position, did you experience anything which you thought were repercussions based on that fact that you refused to accept the position?

[2733] A. Yes, I did.

Q. What was that?

A. Well, it was at this particular time that I refused to accept the position that I got the results indicating that I had failed comps. And it was also at this particular time that I—that I had gotten the results also—or I had actually talked to a professor from Perdue University. I had previously been accepted into a doctoral program at Perdue University and the department had assisted me in obtaining this particular position; however, when I—when I talked to the department chairman at Perdue he informed me that he was under the assumption that I was not going to attend the doctoral program in the fall because I had failed comps.

Q. At this particular time, had you been advised that you had failed the comps?

A. I had just been told. And he said he had received knowledge at least a week earlier and that he had called me repeatedly, waiting on me to tell him that I had failed

comps, but I didn't know that I had failed comps until the day before.

Q. Now, do you know how he found out you had failed the comps?

A. Yes .

Q. How did he find out?

A. My major advisor, who was instrumental in me obtaining the position, and the department chairman.

[2734] Q. Now, did you appeal through the grievance procedure at the University the fact that you had failed the comps?

A. Yes, I did.

Q. What was the results?

A. Through the university?

Q. Right.

A. Okay. I was awarded my degree the next semester.

[2741] * * * * *

TESTIMONY OF LYDIA SPRAGIN

THE WITNESS: My name is Lydia Spragin. My last name is spelled S P R A G I N.

[2742] * * * * *

Q. For the record, state you race, please.

A. I am black.

Q. Where are you from?

A. I'm originally from Clarksdale, Mississippi.

Q. Did you attend the University of Mississippi?

A. Yes, sir, I did, between the years of 1979 of August of that year to August 6, 1983.

Q. And what did you major in?

A. I received a bachelor of science in biological sciences with minors in chemistry and English.

Q. Have you attended school since you left the University of Mississippi?

A. I recently completed on May 9th, 1987, my degree of pharmacy at The Howard University College of Phar-

macy and Pharmacy Sciences in Washington, D.C. At present, I'm a graduate pharmacist and am slated to take the Boards on June 23rd and 24th of this year.

[2743] * * * * *

Q. While you were a student at the University, did you experience any indcidents of racial discrimination related to the classroom or anything in the academic environment?

MR. STEPHENSON: Objection, Your Honor, it calls for legal conclusion.

THE COURT: Overruled.

THE WITNESS:

A. Yes, sir, I did.

Q. Could you relate those experiences to us?

A. Yes, sir. During my freshman year at Ole Miss, I was enrolled in the freshman English class and I was the only black in this class. And I, being a valedictorian from Immaculate Conception High School and making a 24 on the ACT and 21 in [2744] English, I thought that I could write extremely well. When I got to Ole Miss, I received an F for the midterm, and I didn't understand this, so I went back by the instructor's office. The instructors name was Sarah Leach, and I asked Mrs. Leach to explain to my why I was receiving an F in English. And she said no reason whatsoever, you know, when I learned to write where she could understand it, then I would get a better grade.

So I decided to utilize the learning development center at Ole Miss and I talked to Pat Cole, who was then on staff there and had her Masters. And I asked here to look over my papers, and we collaborated and turned them in. And I could never get any more than C on these papers. And C was the final grade that I received from the course. When I went by to ask the professor whether or not or how he arrived at this grade, I happened to see an open

grade book on her desk and discovered that form midterm to the final grade, there were no marks in her book for any of the papers that I had turned in. She had just simplu carried over a C. And I spoke with about ten other people in the class, all of whom were white, and they all got A's. And I just didn't understand.

Q. Do you—

A. Uh—

Q. Go on.

A. In my major field, I took the course hystology, a course [2745] I had not previously done well in, and I decided to retake it. And Dr. McClerkin was the professor. And as I was President of the BSU, and I started to get involved in activities at Ole Miss, I noticed that my grades began to decline in proportion to my involvement with the BSU. So I had approximately a 97 average in Hystology. And one afternoon I was sitting there looking through the microscope and she came back and stood over me and started drawing circles on pieces of paper sitting next to me. And I paid this no attention. I just felt that it was some sort of tactic that she was using. And she said to me, "Do you know what these are?"

And I said, "No, I don't."

And she said, "These are—this is us." And us, I took to mean the white people or the white faculty or the white student body or the whites in general at the Unviersity of Mississippi at that time.

And then she says, "I've been on staff here at the University of Mississippi for a long time. I was here when Meredith was here and I can tell you about him." And she looked to see if this had any effect on my, and it didn't, because I kept looking right in the microscope. And she colored in one of the circles, and she said, "Do you know what that is?"

And I said, "No, I don't."

She said, "That's James Meredith. You know what we did [2746] to him. You know what we are going to do to you."

Consequently, I got a B out of Hystology with a 97 average. And to this day, I don't understand why.

* * * * *

[2747] Q. When you were the President of the BSU, did you [2748] experience any repercussions or harassment which you felt resulted from the fact that you were involved in BSU?

A. Yes, sir, I did.

Q. Can you relate that to us?

A. they were in the forms of telephone calls, letters, physical abuse. The telephone calls started at seven o'clock in the morning—

MR. STEPEHNSON: We object to this unless there's some predicate laid with respect to official or state action.

THE COURT: Objection will be sustained. The predicate should be laid that this—any harassment as resulting of individuals would be irrelevant.

MR. OSBORNE: Your Honor, if you would give me an opportunity I can tie this into failure of the university to carry out its responsibilities when these incidents were reported. The University has an obligation to ensure that students on campus are properly protected and we can tie it into that.

THE COURT: For that purpose, I'll allow you to develop that line.

MR. CHAMBLISS: Thank you, Your Honor.

MR. OSBORNE: (Continuing)

Q. Can you relate to us the type of harassment you experienced?

A. Telephone calls started approximately seven o'clock in [2749] the morning, and ususally I didn't even

set an alarm clock because I knew they would start at that time. It started ringing and you pick up the phone and they say, "Good morning, nigger; what's up, nigger," stuff like that and I just got to the point where I came to expect those telephone calls.

When we walked across campus, we got racial antics, like "Hey, nigger, where you going," and, "Hey, nigger, here's your flag." Blase, blase.

Q. What flag were they referring to?

A. The confederate flag. It's the rebel flag with a cross.

Q. Okay. Continue.

Q. And then one night, we were—a rumor got started that the BSU, with me as president, was going to meet at Bishop Hall, and I had scheduled no such meeting. We were operating on word of mouth at that time and we were doing so because we had no protection from the University Policy Department.

* * * * *

Q. Do you have personal knowledge of this incident, Ms. [2750] Spragin?

A. The person came to me room, and she related the incident to me.

* * * * *

A. At any rate, the policy department at the University of Mississippi offered no support to students. We were being harassed on campus.

MR. OSBORNE: (Continuing)

Q. Were these black students?

A. Black students—

MR. STEPHENSON: Same objection, Your Honor, still no predicate.

THE WITNESS: (Continuing)

A. I got slapped in the face with a confederate flag in the middle of the university.

THE COURT: Just a moment. Objection overruled as to the last question.

MR. OSBORNE:

Q. Continue.

A. I got slapped in the face with a confederate flag. [2751] University Police Department was standing on the corner and people were driving by in red convertibles yelling, "nigger, nigger," and they could see that I was being harassed, but they didn't come over to stop it. The Department of Justice in Atlanta started to call me every morning at that point and asked me if—

MR. STEPHENSON: Object to what they said, Your Honor.

THE COURT: Overruled.

MR. OSBORNE.

Q. Continue.

A. To ask me if I was safe. And they wanted to know if anything had happened the night before that they should know about. And usually, I would tell them, "no, sir, nothing happened last night." But on this particular occasion I had to tell them, "yes, sir, something happened." Because when I was—the rumor broke out that we were supposed to have a meeting at the BSU, some black students of the BSU did go to where the meeting was supposed to be scheduled which was Bishop Hall. By the time they got there, approximately two thousand white students waiving confederate flags and chanting, "two, four, six, eight, we didn't want to integrate and you made us.," met them over at Bishop Hall and they started banging on the doors. And they called me because I had asked the black students not to respond violently to any outbursts that was made or physical attack made on their [2752] person. They called me and they said. "we're scared, come and get us."

And you call the police; of course, there was no response from the policy department.

So we called the community, we called some of the local leaders and ministers to come and try to help rescue those people who were trapped over in Bishop Hall. And I also gave a call to personal bodyguards that we had set up. We had twelve men set up on a force led by Joe West to go over and try to get those people safely out of Bishop Hall.

Now, I don't know how they got out of there, butthey did get out of there and they came over to my dorm. And I said, "We need to get together. We'll get together, for lack of a better place, at Armstead Church here in Oxford." And we called them and they graciously allowed us to meet there. But we couldn't really meet there either, because people started coming and shouting things and we had to post our personal bodyguards outside of Armstead Church in order to just have a meeting and the policy were nowhere to be seen.

On this same evening that same crowd of people dispensed and marched down to Thi Beta Sigma House and started throwing rocks and stones at the windows and literally threatening members of Thi Beta Sigma Fraternity.

Q. Is that a black fraternity?

A. Yes, it is.

* * * * *

[2753] Q. Do you know any specific individual living in that particular fraternity house?

A. Yes, I do, John Hawkins, vice president of the BSU and Thi Beta Sigma and the first black elected cheerleader at the University of Mississippi was domiciled at that particular house.

Q. Was Hawkins the object of any of this harassment that you experienced?

A. I believe that Hawkins was the primary target, but I believe that all black students were the target, because they were shouting, "kill Hawkins, kill Spragin; two, four, six, eight, we didn't want to integrate and you made us." And, "nigger night, nigger night, nigger night, let's get the niggers."

* * * * *

Q. Now, you said Hawkins was the first black cheerleader elected. Did any controversy arise after he was elected [2754] cheerleader?

A. John Hawkins, after he was elected cheerleader, for reasons that – of his own, chose not to wave the rebel flag of the University of Mississippi, the confederate flag.

Q. What happened after he chose not to wave that particular flag?

A. He began to receive a lot of threat notes and death threats. So much so that he couldn't even go out on the field and cheer. And he expressed to me a concern about his life.

MR. STEPHENSON: Your Honor, object to hearsay.

THE COURT: Objection overruled as to the last statement.

MR. OSBORNE:

Q Can you continue.

A. He expressed a concern tome about his life being in danger each time he cheered in front of the football stadium. So I decided that it was time for John to have somebody else on his side rather than John just by himself, and I asked the members of the Black Student Union if they would be willing to support John Hawkins in his stance not to wave the confederate flag at the University of Mississippi. And we unanimously voted to support John Hawkins in this stance.

Shortly thereafter, the Klan decided to march here in Oxford to demonstrate, I guess, what they called the true spirit of the confederate flag. And they carried this [2755] demonstration out on Saturday. I believe it was March 23rd.

Q. What year was this?

A. I mean October 23rd.

Q. What year?

A. 1982. 1982.

Q. Okay. And now did you report – what was the response when you reported the failure of the security to protect the students to the university administration?

A. I reported it to Chancellor Fortune. And the incident that made me report to Chancellor Fortune was four students reported to me – because I had asked them not to go out on their own and violently commit any actions – that they were being attacked in their classroom. And I told him that students were here at the University of Mississippi to learn and not be violently attacked. They could not work under fear and under pressure, and he had an obligation to us as students to protect us and support – and provide that support that we needed to ensure that we could actually learn and get what we came to Ole Miss for, which was an education, and he said, "uh-huh. I see. I'll consider it." And he left town. And nothing was done.

Q. Now, what particular class was this?

A. It was one of the courses being offered in Conner or Bondurant Hall. I don't exactly remember which one, but I remember it was one of those halls.

[2756] A. They were attacked by their fellow classmates. They reported to me that chairs were lifted and raised toward them as if they were going to be struck at, and while they were waving the flag talking about, "Nigger, see this flag, we not going to get rid of it. Ya'll go

home." And they just felt so intimidated by the whole thing that they left the classroom itself, and they came to talk to me about it.

Q. Can you relate to any other incidents of harassment that you experienced?

A. I could probably relate harassment incidents for a long period of time. I have letters here where it – by people who suggested that I come – one stated by an Ole Miss alumni said there were two roads coming into Old Miss –

MR. STEPHENSON: Your Honor, if the Court please, we object to reference to letters and summarizations of letters.

THE COURT: Sustained.

THE WITNESS: I have a copy.

MR. OSBORNE: What was the ruling, Your Honor?

THE COURT: Sustained.

* * * * *

[2757] we think this particular information is relevant in that it goes to the responsibility of the university to take action to ensure that black students are adequately protected. Even though the particular incident she talks about was not necessarily sponsored by the university, once it was reported to the university, the university has an obligation to take some action to ensure that students – that the students were adequately protected. And we think it's relevant in that regard.

THE COURT: Well, the objection is still sustained to any contents of any letters that she might have received from unknown persons that have no connection with –

MR. OSBORNE: May I approach the witness to obtain the letter?

THE COURT: All right.

MR. CHAMBLISS: See if it got a name on it.

THE COURT: All right. You can do it. If it's known or unknown, as long as it has no connection with the State of Mississippi, the ruling will be the same.

MR. OSBORNE: Your Honor, may I make an offer of proof on this?

THE COURT: All right.

MR. OSBORNE: Your Honor, the witness, I asked the witness a question and she stated that while she was President of BSU, she received letters from alumni of the University of [2758] Mississippi. One of the letters she received is dated April the 22nd, 1983. The witness would testify that the letter stated that (reading): There are the same roads going out of the University of Mississippi as there were going in. As you were not deterred from entering, neither you will be deterred from leaving. Most students who seek higher education chose those institutions that are—that best suit their needs. As Ole Miss does not do these things for you, it would be suggested that you seek one that does. And it's signed an interest alumni.

And the witness would further state that this particular incident was brought to the attention of the university in conjunction with other simillar incidents of harassment and nothing was done by the university.

THE COURT: Are you suggesting it would have been up to the university to track down an anonymous writer?

MR. OSBORNE: I'm suggesting, Your Honor, that the university had an obligation to protect black students, and that one of the things that could have been done in this particular regard would be to meet with the Alumni Association in an attempt to discourage this kind of conduct. And especially hold some kind of campus-wide meeting and advise the white students that black students are not to be harassed if the university was serious about

ensuring that the stay of black students on campus would be productive and [2759] that they would be allowed to do what they came to the university to do.

THE COURT: All right.

* * * * *

[2761] Q. Ms. Spragin, while you were a student at the University of Mississippi, were you aware of the University newspaper?

A. Yes, sir, I was.

* * * * *

Q. Were there any articles published in the "Daily Mississippian" that were offensive to you?

A. Yes, sir.

Q. And–

A. There was an edition of the "Daily Mississippian" that came out on April Fool's Day which they call the "Daily Mistake". In that particular issue, the Black Student Union had been proposing all along that cheerleaders be selected, not elected to fill thevarsity squad to cheer before the games. In that particular issue of "The Daily Mistake", my head was attached to a white girl's cheerleader body and pasted together and the caption under it read, "Spragin Selected." And it was a big joke about whether or not black cheerleader would ever get [2762] to be selected, quote, unqote, cheerleaders at the University of Mississippi.

And I found that offensive to me personally, and I found it offensive to me morally, and I found it offensive to me mentally.

* * * * *

[2766] Q. Ms. Spragin, I hand you Plaintiff's Exhibit 363 and 364 for identification. Can you tell us what is Exhibit 363?

A. Well, 363 is an excerpt from the Tuesday edition of the April 6, 1986 "Daily Mississippian", written by Kathy Marshall [2767] and Brenda Robinson, entitled Students React To, quote, "Mistake," unquote.

Q. What is the Plaintiff's Exhibit 364?

A. Three sixty-four is the entire edition of the newspaper entitled, the "Daily Mistake April Fool's Day 1982".

Q. Now, I asked you earlier if there was some editions of the "Daily Mississippian" which you found to be offensive to you and other black students and your answer was yes. Are those the editions to which you were referring to?

A. Yes, they are.

Q. And why did you find Plaintiff's Exhibit 364 offensive?

A. As I stated previously, I found it offensive because it took—one of the reasons, personally offensive, it took my head hee and attached it to a white's person's body and has the caption, "Would You Believe", and then it has "Spragin Selected". And I thought that was an insult to us, and what we were trying to accomplish at Ole Miss, trying to get cheerleader selection, because I happen to believe that black students at the University of Mississippi, given the opportunity, can perform just as well as anyone else and can be selected rather than elected to fill the varsity cheerleader squad at the University of Mississippi.

Q. Had you been a candidate for the cheerleader squad?

A. Never in life. The candidates had been Clara Bibbs, and John Hawkins for senior varsity squad. For the junior varsity [2768] squad, I cannot remember the young man's name, but he had served on the junior varsity squad before.

Q. Why did you dind plaintiffs Exhibit 363 to be offensive to you and other black students?

A. I found 363 to be offensive because in it it states, and I quote, "ASB President William Ray said, I think in-

tentionally or not in the "Daily Mistake" there were definitely racial slurs involved. I can understand why some black students were offended. The first time I slanted. I guess it's because I'm a white student and I'm not openly aware of the criticisms that blacks take." End quote.

Q. Why did you find that to be offensive?

A. I found it to be offensive that the president of our student body, someone that the student body, as a whole had elected, was insensitive to the needs of a portion of the student body, that he couldn't understand what we – seven percent at that time of the student body, approximately – found offensive or found, I guess, objective to us, negative to us. And I felt at that point that we were fighting a losing battle if the president of the ASB couldn't relate to seven percent of the student body.

* * * * *

Q. When you were president of BSU, did you raise any concerns about the manner in shich the University treated the black fraternities in terms of funding or housing or whatever?

A. Yes, I did.

Q. What concern did you raise in this regard?

A. I was told by the university that the next available greek fraternity house on Fraternity Row would be allotted to [2772] Alpha Phi Alpha Fraternity. When that house became available on Fraternity Row, it was not given to Alpha Phi Alpaha Fraternity. And Alpha Phi Alpha felt that since the Black Student Union was representing the concerns of black organizations as a whole that it was appropriate for us to adk why they didn't receive a house on Fraternity Row. And we were told that the house was just not available, that it had already been previously allotted prior to Alpha Phi Alpha's claim on the house. And the University then offered a dorm to Alpha

Phi Alpha to purchase, and it's the dorm that's across from the cafeteria. I don't remember the name of it. It's been closed for a long time. It's directly across in fornt of the cafeteria next to—there's what used to be when I was on campus the music hall. I'm not sure if that's still it. But it made a loop right in front of the cafeteria there. And they asked that they consider that. Alpha Phi Alpha fraternity went over and looked at the dorm and inspected it and brought a list of things that needed to bedone in order to make the dorm liveable, and they asked the University if they planned to upgrade this particular dorm so that they could live in it. And the University told them, no, that was their responsibility to upgrade the dorm.

So then, the University said that—mentioned—and I don't know how they intended to do it—but sell that dorm to Alpha Phi Alpha Fraternity. And, of course, Alpha Phi Alpha then asked the price of the dorm and they were quoted an [2773] outrageous fee, thirty—over thirty thousand dollars or something like that in funds that the local chapter couldn't possibly get together. And they haggled over the amount of money and that sort of things, and they also haggled over whether or not Alpha Phi Alpha Fraternity—if they decided to purchase the dorm, would be still responsible for upgrading, and they would.

And, of course, as evidenced, Alpha Phi Alpha, did not get that dorm. Instead, they chose to black themselves on one of the dorm floors in Twin Towers.

Q. Alpha Phi Alpha is a black fraternity?

A. Yes, it is.

Q. Now, during the time when you were a student at the University of Mississippi, were there any black fraternities on Fraternity Row?

A. None.

* * * * *

[2775] **LYDIA SPRAGIN**

BY MR. STEPHENSON:

* * * * *

Q. Isn't it true, Madam, that after the incident, that the University announced that the rebel flag would no longer be accepted as a university symbol?

A. This is true.

Q. And it's also true, is it not, that the University ceased its practice of purchasing the rebel flags?

A. To my knowlede, when I left the University of Mississippi, they had promised me that the ten thousand dollars that they were allotting presently for student activities from student activity fees would no longer be allotted to purchase the rebel flag. To my knowledge, I cannot speak as to whether or not that has been carried out. I graduated August 6, 1983.

Q. Well, it's true, isn't it, that cheerleaders of the University of Mississippi no longer wave the rebel flag?

A. I'm told so.

* * * * *

TESTIMONY OF JOHN L. HAWKINS

[2776] THE WITNESS: My name is John L. Hawkins, H A W K I N S .

DIRECT EXAMINATION

[2777] BY MR. OSBORNE:

Q. Mr. Hawkins, for the record, would you state your race, please?

A. I'm black.

Q. Where are you originally from?

A. Originally from Water Valley, Mississippi.

Q. Where did you attend high school?

A. Water Valley High School.

Q. Where did you attend college?

A. University of Mississippi.

Q. And when did you attend the University of Mississippi?

A. From 1980 to 1984.

Q. What did you major in?

A. Banking and finance.

Q. (Gestures)

A. Banking and finance.

Q. Did you recieve a degree?

A. Yes.

Q. Are you presently employed?

A. Yes.

Q. Where?

A. I'm a sales representative for Proctor and Gamble in their sales manager program.

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[2778] Q. And how did the election, your election as cheerleader come about?

A. Well, that's a long story and I would like to lead up to it, if I could.

It all started when I was vice president of the black student body under Lydia Spragin, who at the time was president. And being vice president, there was a committee that had been established called the Chancellor's Committee on Minority Student Concerns. This committee was addressing the concern of trying to get blacks on the cheerleading squad at the University. One person in particular that we all thought of was Clara Bibbs, who had tried out unsuccessfully in the past to become a cheerleader at the University. I knew Clara very well. She was a good personal friend. I asked her to try out for cheerleader again. Upon some [2779] reluctance she did agree to do so, but the problem was that she would need a partner, and she

wanted someone that was athletic enought to be able to do the stunts and also strong enough to lift her.

Q. There were no other people on the squad who fit those qualifications?

A. Well, Clara – Clara was specifically looking for someone black to help her. And in talking with her, she convinced me to assist her in her training. So I learned the students along with Clara, again, only heiping – with the intention of helping her to become a member of the squad. However, when tryout time came Clara convinced me to go on and put my name in the pot also to run for cheerleader and I agreed to do so.

The cheerleading process initially was handled by a panel that narrowed it down to the top ten best males and top ten best females and Clara and I were both fortunate in that we both were slected by the panel for the top ten.

At that point, cheerleaders were still being determined by an electoral process at the University. So what that meant was that we would have to go out and actively campaign, knocking on doors, door-to-foor and soliciting votes for people to elect us, if they liked us, I guess, to be cheerleaders.

In going out and campaigning, although I had no intention early on, obviously, of being a cheerleader, I made the [2780] squad. I was elected to be a cheerleader and Clara wasn't, and that's how I came to be a cheerleader at the University.

Q. Were you assisted in your efforts by any of the members of the black faculty at that point in time?

A. Assisted in what way?

Q. In being elected?

A. No. The electoral process, again, was a matter of going out and soliciting votes. knocking on doors and campaigning.

Q. Okay. And after you were elected, did any incidents occur because of something that you either did or refused to do?

A. Well, as the votes were being tallied to determine who would make the squad and who wouldn't, we had a constant tab so we could tell where we were ranking. The squad, if I'm not mistaken, would consist of six people that would be elected, and I was running a close sixth. So when the final vote came in, I ended up being the sixth person. And at that time a reporter—well, there were a number of reporters on hand. One reporter asked me specifically that, if elected to be the first cheerleader, black cheerleader of the University, would I carry the rebel flag, which was a symbol or an item that the cheerleaders had traditionally carried at the University. And my answer to that question was very simple, I told them no, I wasn't.

From that point, things really began to escalate in the [2781] press. The rest is pretty much documented.

Q. When you say things began to escalate, what are you referring to?

A. Well, after the statement of "no" hit the press, I began immediately to receive hundreds and hundreds of letters, some positive and some not positive, some very negative, regarding my status then as the first black cheerleader at Ole Miss. Also involved in much of that mail were death threats and things of that nature.

Q. Did you experience any particular incident near the place where you were living? Did any incidents occur near your residence that were related to the fact that you refused to carry the rebel flag?

A. Well, a number of things happened. I remember a specific incident in which there must have been at least a thousand white students that created a mob around the Phi Beta Sigma House which was my fraternity's house on

Highway Seven, I believe, it is. And the mob supposedly had started out initially as a pep rally, but became a mob. And they started out initially at Bishop Auditorium where they had a couple of black students inside that were really afraid for their personal well being and those students called Lydia for assistance.

But, again, this mob proceeded down Frat Row to the Phi Beta Sigma House where they had become more and more vocal and [2782] were chanting things such as, "We want Hawkins," and "We want Porter Fortune," and we – "Two, four, six, eight, we don't want to integrate," and all this type of foolishness. And there were a couple of other instances also.

I remember specifically when Chancellor Fortune was about to go on record saying that he had – he would disassociate the rebel flag with the University. Oh, I guess about an hour, hour and a half, two hours before hs speech was to take palce, I received a phone call. I lived in Twin Towers at tis time. And I received a phone call and someone – it was – it was a male's voice on the other end – told me that they were going to kill me that day. They said, "We're going to blow your – expletive – away that day."

And by having over the course of time not received any assistance or protection, to my knowledge, from anyone in the administration and after having specifically asked for it, I had to call on Dr. David Hall for assistance. What transpired was that Dr. Hall sent for me and he also got Lydia Spragin and he took us to his home for protection and we used his home as a safe house.

Upon my return back to my dorm room after this incident had transpired, my room was full of water. My dorm room was full of water. What appeared to have happened, had happened, was a trash can, I guess a fifteen, twenty

gallon trash can had been filled with water. And for anyone that's ever been [2783] in Twin Towers Dorm, they know there's a space under each door about that big, one inch maybe, in which the water had been poured into my room. And I knew that this was no accident because on several instances I had returned back to my room and found absurd and violent messages pinned on my door. One guy spray painted a side of the wall. I can't remember specifically what it said, but it was pertaining to me. Again, finding garbage—those same garbage cans filled with garbage, poured in front of my door and the full nine yards.

Q. Now, you mentioned that you stayed at Dr. Hall's house. Is he black or white?

A. He's black.

Q. Was he associated with the university?

A. Yes, he was a professor in the law school. I don't know his specific role.

Q. Now, how many times did you find messages on your door?

A. Sometimes a couple of times a week. It depended upon the level of press thta was going on at that time. But as per mail, I received mail every day. People—I received mail from all over the country. I guess it got to the point where the post office didn't need a specific address or post office box number. All they needed to say was John Hawkins and they knew who to give it to because so much was coming in.

Q. Now, did you think that when you received these threats, that people were merely playing or—did you take the threats [2784] seriously?

A. Oh, I took the threats very seriously. In fact, what I had done on occasion—that's one thing I would have to give Chancellor Fortune credit for, ws that he did provide

me access to him. I went to him and I told him of the situation that existed in terms of the death threats and I asked him specifically for some protection. He didn't provide any for me, to my knowledge. I took it a step further and I went to the Chief of University Police, I believe his name was Mike Stewart, and I shared with him some specific graphics that I had received from the Ku Klux Klan and some other death threats and I asked him for protection also and he told me that he would not provide any for me. And I had shown him minor bruises that I had received from our sporting events in which I had been popped with a golf ball or someone would throw a whiskey bottle from the stand and pop me with it.

Q. Was this during the time you were performing as a cheerleader?

A. Yes.

Q. Were any efforts made by the BSU to provide protection to you?

A. The BSU?

Q. Yes.

A. No. The reason for that is because my primary entity, I guess, for my not only moral support but protection was my [2785] fraternity. And maybe that's why the mob scene, when it transpired, they desired to hit the Phi Beta Sigma House first, knowing that I would be there.

Q. Were you at the house at the time?

A. Yes.

Q. How long did this particular mob, as you termed it, stand outside the house?

A. I can't remember specifically the time. I would say at least thirty minutes, forty-five minutes or so.

Q. Did you call campus security while the mob was outside?

A. I did not, but I do know efforts were made to contact campus police. In fact, they were already there

because they were directing traffic. And it was so funny because a couple of my fraternity brothers—Larry Pittman, is one that I can state specifically—was trying to get into the house because the mob was—had virtually surrounded us. And one of the policemen had treated him pretty cruelly in terms of pushing him literally to the ground forcing him on inside.

The mob wasn't up at that point where he needed to have been treated, I thought, in that way.

Q. Did the security officers do anything to disperse the mob?

A. Not that I could see. And by that, I don't know if they did or didn't, but, again, not that I could see. From what I did see, the mob, I guess after they had made their [2786] statement and shown their force, began to dissipate on their own.

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[2788] Q. Did your fraternity make any attempt to secure housing on Fraternity Row?

A. Yes.

Q. Were you successful?

A. No.

Q. What attempts did you make in this regard?

A. I don't know the specific steps. It was discussed in our chapter meeting that efforts were being made for our fraternity to acquire a house on Fraternity Row. Now, this was at the end of my tenure at the University and it was followed up on after I had left the University, so as per the specific on that I don't have that information.

Q. Does the fraternity have a house on Fraternity Row at present?

A. Not to my knowledge, no.